104

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Wild Bird Conservation Act, Serial...

WILD BIRD CONSERVATION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS

OF THE

COMMITTEE ON RESOURCES HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

THE IMPLEMENTATION OF THE WILD BIRD CONSERVATION ACT OF 1992, PROBLEMS IN PERMITTING, AND SUGGESTIONS FOR IMPROVEMENT

SEPTEMBER 28, 1995—WASHINGTON, DC

Serial No. 104–39

Printed for the use of the Committee on Resources

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WILD BIRD CONSERVATION ACT

THURSDAY, SEPTEMBER 28, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS, COMMITTEE ON RESOURCES

Washington, DC.

The subcommittee met, pursuant to call, at 10:07 a.m., in room 1334, Longworth House Office Building, Hon. Jim Saxton presiding.

STATEMENT OF HON. JIM SAXTON, A U.S. REPRESENTATIVE FROM NEW JERSEY, AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS

Mr. SAXTON. Good morning. Before we start, we are rather informal and I see that all you folks don't have seats. If you would like to come up and join us at this lower podium, that would be fine. It is better than standing up.

Today's oversight hearing is on the Wild Bird Conservation Act of 1992. Lately the subcommittee has been receiving numerous letters from around the country regarding this law. While a fair number have reflected strong support for the Act as is, many more have written in opposition. I am hoping that this hearing today will clarify the Congressional intent of the Act and its implementation by the U.S. Fish and Wildlife Service.

My home state of New Jersey has a strong wild bird protection statute which will be discussed later today. It is my understanding that the Federal law is loosely modeled on the New Jersey law and laws of other states that have been put in place.

I am concerned that the Clinton Administration did not ask for funding for the Wild Bird Conservation Act and look forward to discussing this with the Administration's witnesses. I remain supportive of the Act and hope that this lack of fiscal enthusiasm for the law on the Administration's part does not mean overall support is lacking.

I now recognize the ranking member, who is not here. We will bypass the ranking member, and I ask unanimous consent that all subcommittee members be permitted to include their opening remarks in the record. Mr. Torkildsen was here, but he just left.

[The statements follow:]

STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA, AND CHAIRMAN, COMMITTEE ON RESOURCES

Mr. Chairman, it is appropriate that the Subcommittee is today conducting this oversight hearing on the Wild Bird Conservation Act (WBCA) of 1992.

While there are very few cockatoos, finches, or parakeets living in Alaska, this law has generated a tremendous amount of controversy. In fact, this Subcommittee has received hundreds of letters from Americans throughout this country who honestly believe that the U.S. Fish and Wildlife Service is intent on reducing the number of breeders, confiscating their pets, and making it virtually impossible to legally import a captive-bred exotic bird into the country.

If that is the case, then that is a wrong and misguided interpretation of the law which has as one of its goals the "sustainable utilization of exotic birds to create economic value in them and their habitat, which would contribute to their conservation and promote maintenance of biological diversity."

I am also concerned that for the second consecutive year the Clinton Administration has failed to request any money for the Wild Bird Conservation Act. If this law is no longer required or is not priority, then it should be repealed.

If this law is important, then the Clinton Administration has an obligation to stop stealing funds from other fish and wildlife programs, like our refuge system, and to pay the administrative and law enforcement costs of the WBCA.

Finally, it is my hope that our distinguished witnesses will tell us whether they feel the Wild Bird Conservation Act has been effective, whether it has been properly administered by the U.S. Fish and Wildlife Service, and what changes, if any, are needed to P.L. 102–440.

Thank you, Mr. Chairman.

STATEMENT OF HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS

Once upon a time, not so long ago, in lands far away, lots of bad people were taking lots and lots of young, exotic birds out of their tropical nests. The birds were stuffed inside empty tires, shipped through ports and over routes used by drug smugglers, then sold commercially for a premium in the United States.

Needless to say, many of these birds did not live happily ever after—which is why the Congress attempted in 1992 to assess the biological impact of the enormous domestic demand for exotic birds.

We learned that the United States is far and away the largest market for the pet trade and captive breeding, and that this demand was clearly jeopardizing the health of their native populations.

We learned that an enormous number of birds—an estimated 100,000 a year—were dying in transport.

And we learned by heart the fairy tales about Fish and Wildlife personnel, storming late at night out of black helicopters, snatching bird-cages out of the homes of devoted and terrified cockatoo owners.

The moral is not that the 1992 statute passed unanimously in both the House and Senate, and was signed into law by President Bush.

Or even that, as we sought quiet consensus three years ago, the 1992 bill was supported by some of the same groups which today call for its repeal.

It doesn't even matter that many people have a hard time taking the problems of finches and lovebirds seriously.

The point is the law has worked. Bird smuggling and laundering—operations run in many cases by the same people who smuggle illegal drugs, and with the same motives—have been severely undermined.

Weakening this statute now would mean buckling to the pressures of misinformation, and would risk doing unnecessary harm to entire species.

As we will hear this morning, we may need to address some inequities in the statute. However, while I realize the environmental record of this Congress has not stressed subtlety and nuance, I would respectfully suggest that it may be possible to shoot at this target with something smaller than an elephant gun.

Mr. SAXTON. Our first witness is the gentleman from Illinois, Tom Ewing. We are going to hear Mr. Ewing and then perhaps we will have a question or two for him, and then we will go on to the next panel. Tom, thank you for being with us this morning. You are recognized for your contribution.

STATEMENT OF HON. THOMAS W. EWING, A U.S. REPRESENTATIVE FROM ILLINOIS

Mr. EWING. Thank you, Mr. Chairman, and I really appreciate the opportunity to speak here today on this controversial issue. While I am not here to specifically discuss the Wild Bird Protection Act, I am going to discuss the U.S. Fish and Wildlife Service's enforcement of bird protection laws in general.

I would like to take this opportunity to recount a series of events that have taken place over the last year in my district. In May of 1994 the First Lady, Hillary Clinton, gave the commencement address at the University of Illinois at Champaign, which is also in my district. A woman who was active in arts and crafts at the time in nearby Monticello, Illinois, named Peg Bargon was asked by a local Democratic party official if she would make a dream catcher for the First Lady.

For those of you who are unfamiliar with a dream catcher, they consist of a hoop with beads hanging from the bottom and feathers surrounding the hoop. According to Native American lore, the hoop was supposed to catch bad dreams and funnel good dreams toward the sleeper's head through the beads. These items can be found in virtually any craft store in the country.

Peg Bargon was thrilled with the opportunity to represent Monticello and all of Central Illinois in preparing a gift for the First Lady. The gift was presented to Mrs. Clinton. Mrs. Clinton then sent Peg Bargon a letter thanking her and explaining what a great addition the dream catcher made in the White House and that she was equally proud that it represented Native American culture.

This story was picked up by one of the local newspapers in my district and accompanied by a photo of Mrs. Clinton being presented the gift. One of the agents in the Springfield, Illinois, office of the U.S. Fish and Wildlife Service noticed the picture and specifically took note of the feathers adorning the dream catcher. An elaborate sting operation was set up with an agent posing as someone interested in buying a dream catcher.

Also, Mrs. Bargon sells dream catchers in a local arts and crafts store run by two sisters. These women were also targeted in the sting operation. Finally the agent moved in and came to Peg Bargon's door armed with a search warrant and searched her home. They also showed up at the craft store, locked the doors and forced the employees to sit there while they were searching the entire store, a search that lasted several hours.

These women were arrested and charged with violating various bird protection laws. They were not out killing birds for their feathers. To the contrary, she would find various feathers while walking through the woods by her house. They offered a plea bargain. In the exchange for a guilty plea, prosecutors would recommend the most lenient penalty allowed under law. Peg Bargon pleaded guilty and is awaiting sentencing. She faces up to six months home confinement and up to $20,000 in fines as a result of this plea. No charges have been made against the two store owners.

This issue has set the Fish and Wildlife Service in Central Illinois back fifty years. Every newspaper in my district came out against the agency. Every piece of mail I have received on this issue has been in support of Peg Bargon. At a time when there is

unprecedented scrutiny of law enforcement, it is exactly this type of operation that feeds the discontent of the American people. To get an idea of how ridiculous this situation got, the agent with the Fish and Wildlife Service was quoted in the press as saying that technically the First Lady was in violation of the same laws that these ladies were.

We need a little common sense to be injected into both the statutes and the enforcement of such statutes. Now I don't think that Hillary Clinton should be prosecuted for this event. My complaint is not about bird protection laws, but the overzealousness of the Fish and Wildlife Service enforcement. Nobody here wants to see birds hunted down for their feathers or otherwise endangered for any commercial reason, but to treat a bird feather like heroin or enriched uranium is preposterous. If you stop and pick up a blue jay feather, and I have in my own yard, that is laying in the yard or along the street, you are guilty of a felony because of the strict liability of the law.

The fact that the Fish and Wildlife agent locked these women inside their store while they were conducting the search is unconscionable. These women would be like your mother, your sister, certainly not criminals. The other day at a local picnic a 90-year-old lady said to me almost in tears that she had picked up a bird feather and how frightened she was that she might be arrested.

Monticello, Illinois is a small town that is as typical of mid-America, law-abiding America as any place in the world, and to have this kind of sting operation in that community is just unbelievable. People in small towns like Monticello respect the law and in return they expect to have respect. We need a more common sense approach, because it is the poachers that are the most significant threat that we should be concentrating on stopping, not the activities of law-abiding citizens. Now a simple warning from the agency, I am sure, would have stopped any illegal action in this community.

I would suggest that we focus on changing the strict liability statute for simple possession and leave it in place for those people who are target—who are poaching. This is a more responsible and reasonable approach to this problem.

Mr. Chairman, I greatly appreciate the opportunity to come here and to share this story. It is more than just a story of people in my district. Peg Bargon pled guilty because this was destroying her life, her marriage, her family and she had to get out of a bad situation. She couldn't fight it any longer. We shouldn't treat our people like that. Thank you, Mr. Chairman.

[The attachments to the statement of Hon. Thomas Ewing may be found at end of hearing.]

Mr. SAXTON. I would just say, Mr. Ewing, that members of this subcommittee, as well as the full committee, who are responsible for monitoring, and from time to time reauthorizing, laws that have to do with saving endangered species or other types of laws which are so important to the environmental quality of our country and our world hear stories like this from time to time and it always makes our job that much more difficult. We have some new folks on this panel, particularly on the full committee, who have heard stories like this that have been carried out by environmental agen-

cies of one kind or another or the Division of Fish and Wildlife, and it really makes our job very difficult because then we have to justify the intent of the law in the face of overreaching on the part of agencies.

And this example is probably the most fallacious example, that I have ever heard, of overreaching. And I wish that environmental protection agencies and the Division of Fish and Wildlife and other state, Federal and local agencies would put themselves in a position of being more responsible all the time, because when something like this happens it just makes it extremely difficult for all of us who want to do a responsible job.

From your point of view, how do you think this situation should have been handled?

Mr. EWING. Well, I think the agency should use a lot of common sense in applying the law. I would have either given a verbal notice or a written notice to the people involved that they were in violation of the law, that they could be prosecuted for their activities, and then I would have watched very closely to see what happened. If they didn't cease the activity immediately, then they should be prosecuted. I took a few surveys in groups, and I asked how many people knew there was even such a law on the books, and no one—almost no one—would raise their hand.

Now that isn't a defense not to know the law, but it is in fact a condition that I think responsible law enforcement would take into consideration. So I think a simple notice given, at least on the first violation for somebody in just possession, and then notify them of the law would be the best way to handle it.

Mr. SAXTON. Well, I want to thank you for your testimony and for bringing this situation to our attention. The ranking member has arrived, and I suspect that perhaps he doesn't have any questions at this time, but welcome aboard. Appreciate you being here. And thank you very much, Mr. Ewing, for your testimony, unless you have something further to add.

Mr. EWING. If I can be of any further service or make any more input on this, I would be very happy to do so. Thank you very much.

Mr. SAXTON. Thank you very much. Now let me introduce our second panel also comprised of one person, Mr. Marshall Jones, who is the Assistant Director of International Affairs for the U.S. Fish and Wildlife Service. Mr. Jones, we are anxious to hear your testimony, and so you may begin whenever you are ready.

Mr. JONES. Thank you, Mr. Chairman.

Mr. SAXTON. Mr. Jones, I understand there is a Sue Lieberman with you. If she would like to join you at the table, that is up to you.

Mr. JONES. All right, Mr. Chairman, I would be happy to ask Dr. Lieberman. And I also have Mr. Tom Striegler with me and I have Mr. Roddy Gable from our scientific authority.

Mr. Chairman, before I start my statement on the Wild Bird Conservation Act, I wanted to take note of the testimony which was given by the previous panelist. I was not asked to prepare testimony on the dream catcher issue and the Migratory Bird Treaty Act, and so I am not prepared to address those issues today. However, Mr. Chairman, if this committee has any questions about the

situation, we would be more than pleased to provide you with a written summary of Fish and Wildlife Service's actions which took place and answer any questions which you or Mr. Ewing or any other member of this committee or the Congress as a whole may have on that. We would be happy to do that if that would help facilitate your understanding of what happened and why.

[The following was submitted:]

DREAMCATCHER INVESTIGATION

The U.S. Fish and Wildlife Service is responsible for enforcing the provisions of the Migratory Bird Treaty Act (MBTA) of 1918. Under the MBTA, it is unlawful for anyone to kill, capture, collect, possess, buy, trade, sell, ship, import, or export any migratory bird, including feathers, parts, nests, or eggs.

The U.S. Fish and Wildlife Service does not actively investigate mere possession cases. We focus our investigative efforts on commercial trade. The Service's investigation into the illegal commercialization of migratory birds feathers by Ms. Peg Bargon was an investigation into the commercial (for profit) sale of migratory bird feathers. Evidence showed that Ms. Bargon was actively collecting and encouraging others to collect migratory bird feathers to be used in simulated Native American handicrafts and offered for sale.

In May 1994, First Lady Hillary Rodham Clinton, in her official capacity as First Lady, received a "Dreamcatcher" during an appearance at the University of Illinois. The dreamcatcher was made by Peg Bargon and it contained feathers from protected migratory birds including bald eagle, barred owl, goshawk, and snowy owl. As soon as Mrs. Clinton learned that the dreamcatcher contained feathers from protected species, she immediately turned it over to officials of the U.S. Fish and Wildlife Service.

As the popularity of American Indian artifacts has increased, a lucrative market has developed for migratory bird and eagle feathers to decorate many Indian curios and art objects. Enforcement officers have no way of determining whether feathers used in art work are found on the ground in one's own backyard, or if they came from a bird that was killed illegally. The prohibitions under the Migratory Bird Treaty Act are therefore intended to eliminate any commercial market for the birds themselves as well as their feathers and parts. Also, Mrs. Bargon has no affiliation with any Native American tribe and would not qualify for possession of feathers on this basis.

Statements recorded by Special Agents during the investigation documented that Bargon, Norma Allen and Beverly Fogel, owners of the Sisters Etc. Crafters Mall where the dreamcatchers were publicly displayed and sold, knew and discussed the fact that possession and sale of migratory bird parts and feathers was illegal. In addition, Allen and Fogel admitted to Special Agents that they had been warned that the sale and possession of migratory bird parts and feathers was illegal. They further stated that they discussed this conversation with Bargon. They still decided to continue to commercially deal in the dreamcatchers.

Brad Purcell, who stored migratory bird parts at his residence for Bargon, stated to Special Agents that his attorney had advised him that the possession and sale of parts and feathers of migratory birds was illegal. Purcell stated that he discussed this information with Bargon and they still continued with the illegal commercialization of migratory bird feathers.

During the investigation, Bargon stated to Special Agents that she not only collected the feathers and whole carcasses of protected migratory birds herself but she encouraged hunters, trappers and others to collect and provide her with such bird parts.

STATEMENT OF MARSHALL JONES, ASSISTANT DIRECTOR FOR INTERNATIONAL AFFAIRS, U.S. FISH AND WILDLIFE SERVICE; ACCOMPANIED BY DR. SUSAN LIEBERMAN, TOM STIEGLER, AND RODDY GABLE

Mr. Chairman, I very much appreciate this opportunity to be here today to discuss the U.S. Fish and Wildlife Service's implementation of the Wild Bird Conservation Act. For reasons which I will describe, we believe that the reauthorization of this act without amendments is vitally important to the continued survival of

some of the world's most beautiful and important wild birds. In order to explain why the Wild Bird Act is so important, I would like to take a moment to describe the situation prior to the approval of this law by Congress and its enactment by President Bush in 1992.

Before then, the United States was the world's largest consumer of wild exotic birds, importing somewhere between five and eight hundred thousand birds per year in the 1980's. Unfortunately, the majority of these birds were taken in the wild in unsustainable harvest programs, having a seriously detrimental effect on the species. In addition, for every bird imported experts estimated that up to five more died in capture, holding and transport in their native countries. And of the birds which finally did make it to the United States, Department of Agriculture statistics show that from 1985 to 1990 over 330,000 birds were dead on arrival in their crates or died during the required 30-day quarantine period.

There is an international treaty, CITES, the Convention on International Trade and Endangered Species of Wild Fauna and Flora, which is designed to prevent unsustainable trade and mortality in transport. But, at that time, CITES was not enough since many of the nations involved in the wild bird trade lacked the ability or the incentive to collect the required information and institute the controls that would be necessary to ensure that the trade was not harmful to wild populations. That was the situation prior to 1992, and the United States was powerless to stop it until the Wild Bird Conservation Act was enacted as a way to halt U.S. involvement in this unsustainable trade.

Before I describe how the Wild Bird Conservation Act has done this, Mr. Chairman, I would like to describe some of the things that the Wild Bird Conservation Act does not do. The Wild Bird Conservation Act completely exempts all birds native to the United States, like cardinals and bald eagles, from any of its provisions. It also exempts ten families of birds, including game birds like ducks, geese and turkeys as well as ostriches and others. It has no effect at all on the commerce within any state or the commerce between states, nor does it have any effect on the breeding of birds within the United States. The Wild Bird Act has focused on one simple thing, regulating the imports of wild birds into the United States to make sure that they originate from sustainably established programs and do not suffer harm in transport.

The Wild Bird Act accomplished this through a phase-in period, and after one year a complete prohibition on imports of any bird listed under CITES unless these birds met criteria for sustainable origin. There are four ways in which the Wild Bird Act does this, and I would like to describe very briefly each of those ways and what we have done to date to implement that provision.

The first step was to establish a permit process, since the law provides that birds can come in with prior issuance of permits for four purposes—personal pets, zoological display, scientific research, and cooperative breeding programs. Since we finalized our regulations for permits in 1993, we have issued over 550 permits, 90 percent of them for personal pets. And we are now able to process permit applications for these personal pets in less than two weeks. We have also issued permits to 14 zoological institutions to import

specimens for breeding and public display, and nine cooperative breeding programs have been approved with oversight from organizations ranging from the Peregrine Fund to the American Federation of Aviculture. We encourage other breeding programs to apply for permits and we are working to make the application process as user-friendly and efficient as we can.

The second step was to establish an approved list of captive-bred species which could be imported without need for permits. We have now adopted a list which includes 45 species and three color forms. It is significant that the final list we adopted in 1994 contained a number of additions of parrots and finches which were species recommended to us during the public comment period.

The third step in implementation was to allow for imports of birds taken in the wild in foreign countries. The law provides for this provided those countries have a sustainable management program. We have published proposed regulations to implement this provision. We received over 1500 comments. We have completed the analysis of those comments and we expect to have final regulations adopted by the end of this year.

The fourth step was to implement the provisions of the law that provide for approval of captive breeding facilities in foreign countries. We also have published a proposed rule. We have received over 4000 comments.

Mr. SAXTON. Mr. Jones.

Mr. JONES. Yes, sir.

Mr. SAXTON. I suspect that you have a couple more minutes. Why don't you just go ahead and proceed in spite of the fact that five minutes has expired.

Mr. JONES. All right, I appreciate this, Mr. Chairman. I will try to be brief. We have received over 4000 comments. We have completed the review of those comments and we have now done our first draft, and we expect to be able to adopt final regulations for those foreign captive breeding facilities early next year.

We recognize that many people wish that we had adopted our regulations sooner. No one wishes that more than we do. However, Mr. Chairman, this was a new and unprecedented law, and as I mentioned, we received many thousands of comments. And the one thing we did not want to do was make a rush to judgment. We received comments that have caused us to look again at everything we have done. We will seriously consider those comments, and that is what has taken time.

Finally, Mr. Chairman, the law asked us to review the possibilities for implementation of some kind of voluntary marking or labeling program and to consider whether we needed to do regulations. We have consulted with a number of aviculturists and organizations, many of whom are represented here, and we held a public meeting on this subject in April of this year. We have now concluded that there is no need at the present time and we see no need in the foreseeable future to impose any labeling program on any breeder or business, and we have no intention of pursuing this matter further.

In closing, Mr. Chairman, the Fish and Wildlife Service strongly supports the reauthorization of the Wild Bird Conservation Act. The United States has shown world leadership in the conservation

of exotic birds and reauthorization will confirm our commitment to continue this leadership. We look forward to working with this committee on the reauthorization process.

Mr. Chairman, I have a written statement which I would ask your permission to enter into the record. It also includes a number of attachments which describe in more detail our program. And I would also be happy to answer any questions which you may have.

Mr. SAXTON. Thank you. Your written statement certainly will be included in the record without objection.

[Statement of Marshall Jones may be found at end of hearing.]

Mr. SAXTON. I suspect that your characterization of the Act as user-friendly may be subject to some questions by some panelists who will follow you. Let us suppose that they have already told us some stories about how difficult it is to deal with the Act. Would you expound on your contention that this program as it exists currently is user-friendly?

Mr. JONES. Mr. Chairman, my intent there was to say that that is our goal.

Mr. SAXTON. I am sorry. OK.

Mr. JONES. I won't say that——

Mr. SAXTON. That you obviously have not quite reached.

Mr. JONES. If you set a high enough goal, it may be something that you never reach. I have administered various kinds of permits programs for a number of years and I found that one thing is true, you always have to keep reinventing your process. It is never perfect when you are dealing with the public. There are several things about the Wild Bird Conservation Act, though, that I think that have lent themselves to misunderstandings. The law is new and it is unprecedented, and I think there were widespread fears that the law would have a greater impact on people's individual activities than the law actually provided for. I also think when we propose rules we try to propose something which reflects our best thoughts about how law should be implemented. In the case of some of our proposals, we received a lot of comments that have told us that there may be improvements that we can make. We are taking those comments very seriously and we are working to come up with a process that will be as user-friendly as we can make it today. And we will keep constantly striving to improve that for the future.

Mr. SAXTON. How long does it take generally today to work through the process from the time someone applies for a permit to the time that they receive one?

Mr. JONES. For personal pets, which are the kind of permits that have the most immediate impact on someone, we are able to do those now in less than two weeks. Our general goal for permits of all kinds is 60 to 90 days. We have been able to meet that target in some cases and not in others. For example, for the permits for cooperative breeding programs, we endeavor to contact the bird authorities and the CITES management authorities in countries of origin. International communications take time, and so we have found we are not always able to meet our deadline of 60 to 90 days. I do not have an exact average processing time, Mr. Chairman, but we could certainly supply that to you for the record. But we are working constantly to shorten those times with our goal to have it the minimum possible in order to——

[The following was submitted:]

PROCESSING TIME FOR PERMITS

Three months is the average processing time for permits under the Wild Bird Concervation Act, excluding permits for pet birds which take less time, as stated above.

Mr. SAXTON. Are regulations currently in place for the importation of captively bred species?

Mr. JONES. There are regulations in place which allow the import of 45 species without need for permits that are on an approved list. Those are species which meet a criterion in the law that there be no wild-caught members of that species in trade, so there is no possibility of any harm. The regulations for import from individual captive breeding facilities in other countries have been proposed. Those are the regulations that we have the 4000 comments. We have completed the analysis of those comments. We expect to have final regulations in place early next year.

Mr. SAXTON. I understand that this process on this set of regulations that you speak of has been ongoing for three years, is that correct?

Mr. JONES. The law took effect three years ago and we phased our implementation of the law, recognizing that there were many different parts. The law itself also had a phased period, because during the first year imports were allowed under a quota system. After that first year, automatic prohibitions took effect. And so we have published, Mr. Chairman, regulations first and foremost—our first priority was the permits process so that people had a way to get permits. The second priority was establishing the lists of species that don't need any permits at all, and we have adopted the regulations that establish the list of 45 captive-bred species. We have two more pieces to that that need to be finalized on the captive breeding facilities to which you just referred, as well as the management programs in other countries. And those are the ones that we expect to have finalized at the end of this year for the foreign breeding programs and early next year for the captive breeding facilities.

Mr. SAXTON. Let me turn to a slightly different subject, and then we will ask Mr. Studds if he has any questions. I understand that the Administration has never requested funding for the Wild Bird Conservation Act. I assume that is true, therefore the question is how in the world are you funded?

Mr. JONES. Mr. Chairman, I am not sure of the source of your information, but in fiscal year 1994 the Administration did request funding to implement the Wild Bird Act. We requested that in two ways. We requested $500,000 for permits programs, but we also requested additional funding. A total of 800,000 additional dollars were requested also to implement general permits programs in fiscal year 1994. And there was an additional request of $500,000 for law enforcement for wild birds and related activities. We received an appropriation, but we did not receive the entire amount which we requested, which included funding for a variety of our permits programs.

So, Mr. Chairman, we have some funding for the Wild Bird Act, but we do not have all of the funding which was requested in fiscal

year 1994. In fiscal 1995, the next year, we requested again some increases for our permits programs in general. We did not get all of what we requested. In fiscal 1996 we requested a small increase, $100,000 I believe it was, for our permits programs. We did not receive that increase. So, Mr. Chairman, we have some funding for wild birds, but we have not received overall for the permits program as much as we had requested.

Mr. SAXTON. I just want to make sure that we are not confused on this. I have a memo here from Dr. Lieberman which indicates clearly that the request for '95 was zero and that the request for '96 was zero.

Mr. JONES. Mr. Chairman, that was the request that was specifically identified under Wild Bird Act. We requested funds in fiscal year 1994 under the Wild Bird Act, but we also requested funds for our general permits program, because it is a little hard to separate. Some aspects of our permits processing are generic, whether it is Wild Bird Act, Endangered Species Act, Marine Mammal Act or other laws that we administer. So Dr. Lieberman's information that you have there is certainly correct in terms of what we requested specifically under this law, but it does not cover general increases that we requested for permit activities in those fiscal years that included a wide variety of laws.

Mr. SAXTON. You are taking funds from another general source, is that what you are saying?

Mr. JONES. Yes, sir. We have a general appropriation. This year it is—the line item is International Affairs in the Fish and Wildlife Service budget, and in our budget request to Congress we very specifically describe all the different activities which are funded out of that, and the Wild Bird Act is mentioned there, but it is one of several laws which we administer.

Mr. SAXTON. Do you think—are you adequately funded? I think that is the bottom line here. Can you do your job with the funding that you are able to find from other sources? Do you need more staff? Would you be able to meet your deadlines and your objectives more adequately if you were properly funded?

Mr. JONES. Mr. Chairman, I guess there is—somewhere there is a law that—a rule that bureaucrats are sort of trained in one way to say there is never enough funding. In this case, Mr. Chairman, I would say that we believe we have enough resources to administer the law. We did make requests for increases that would have helped us administer the law better that we did not get. In this time of fiscal constraints, we all recognize that we have to try to work as efficiently as we can, and so we are prepared to administer the law to the very best of our ability and, we think, to administer the law fairly with the resources that we have now.

Mr. SAXTON. I am not—Mr. Studds was the chairman and did a lot of work on this, and I will turn to him, but we authorized up to $5 million a year, I believe, because we were—we assumed that there would be tasks to be performed that would require some significant amount of money. And you are performing these tasks. I guess on the one hand we should congratulate you, but on the other hand if the small amount of money is prohibiting or making it too difficult or making it burdensome on the users that we are here to regulate, then that could certainly cause us some concern.

That is the end of my questioning. Mr. Studds, why don't you proceed.

Mr. STUDDS. It is your problem now, Mr. Chairman. Good luck.

I think it is very wise of you not to request any funding, otherwise you might be abolished. My counsel to you would be to keep your head down. If attacked, claim you don't exist.

Mr. JONES. Mr. Chairman, I am afraid it is——

Mr. STUDDS. Try to ride it out.

Mr. JONES. Congressman, I am afraid it is too late.

Mr. STUDDS. Don't be ashamed of highfalutin goals. I mean, consider what these folks say they are going to do, pretty awesome.

I remember when we worked on this law three years ago. Much of the opposition was based, I think, more on fear of the unknown than perhaps anything else. That is understandable, an industry that has never been regulated faces the prospect for the first time of regulation of some kind. Based on the concerns we have heard leading up to this hearing, it sounds to me like we may have that same problem again. And I am sort of trying to sort out fiction from fact. Can you tell us how many permits have actually been denied? How many birds have actually been confiscated and how many foreign governments have in fact complained about the crackdown on trade in birds?

Mr. JONES. Congressman, if I could take your questions in reverse order. I know of no foreign governments which have expressed any complaints to us about the implementation of the Wild Bird Act. We have had some direct dealings with foreign governments, and my colleague Dr. Lieberman has just returned, for example, from meetings in Central America where she worked extensively with colleagues from Latin American countries, Argentina and others, about how they could improve their management of wild birds and how they could hope to qualify under the law once our regulations are final.

In terms of the number of confiscations, Congressman, with your permission I would like to turn to my colleague, Mr. Tom Striegler from our division of law enforcement and ask him if he could address that question.

Mr. STRIEGLER. Mr. Chairman, our computer indicates that we have seized a little over 2600 birds since the implementation of the Act. Now I am not—I don't have the disposition of all those birds, so I don't know that all of them have actually been forfeited to the government, but those are the number of seizures indicated by our central computer.

Mr. JONES. And finally, Congressman, you asked about the number of permits which we have denied, and let me ask Dr. Lieberman if she has the information.

Dr. LIEBERMAN. Yes, thank you. We have denied two permits for scientific research, two for zoological breeding and display and we have denied two applications for cooperative breeding programs out of a total of 12 applications.

Mr. STUDDS. Thank you. You made some reference, Mr. Jones, to the fact that there have been suggestions that we eliminate from regulation captive-bred critters. I know—I recall that one of our concerns in 1992 was so-called bird laundering, that is not putting them in the washing machine, but we were worried about illegally

caught wild birds being sold as captive bred. Have you had any cases that relate to the problem?

Mr. JONES. Mr. Congressman, we have had some very substantial cases that relate to that problem. One recent operation, Operation Renegade, involved an international smuggling ring engaged in all kinds of activities designed to get fraudulent papers, and bring birds into the United States under false circumstances. Now that case was not brought under the Wild Bird Conservation Act, because the case was initiated before the law was passed, but it does emphasize that there are those who would seek to make a profit off the illegal acquisition, the unsustainable taking of birds from the wild, bringing them into commerce and selling them into the United States. It is not surprising since the value of some of the birds that were involved in this operation, cockatoos from Australia which were removed from nests and smuggled into the United States and then masqueraded as captive-bred birds, many of those birds were worth many thousand dollars in the retail trade. And so, Mr. Congressman, there is this very small minority of those who will seek to ignore the law and by fraudulent means bring birds in. That does not mean, Mr. Congressman, that we believe that the vast majority of those who are affected by the law are anything except law-abiding citizens who will seek in every way they can to comply with the law, but it does emphasize, Mr. Chairman, that there is always the possibility of illegal activities, and we strive to take the appropriate action to minimize those, to find the people who are doing that and to prosecute them.

Mr. STUDDS. So your position generally is that the law as it stands is fine, although it could always use improvement in administration, and that is your goal?

Mr. JONES. Yes, sir.

Mr. STUDDS. Are you quite sure you want this Congress doing anything at all with your statute?

Mr. JONES. Congressman——

Mr. STUDDS. Do you want a reauthorization or would you like us to pretend momentarily that you don't exist?

Mr. JONES. I will have to repeat, I think it is too late for us to become a stealth program.

Mr. STUDDS. You are not expensive enough.

Mr. JONES. And we do—we seek to have the Act reauthorized and we hope that it can be reauthorized exactly the way it is written right now.

Mr. STUDDS. Let us pray. Thank you very much.

Mr. SAXTON. I see that the new Congress has at least one member's attention. Mr. Jones, thank you very much for your testimony. I have no further questions and will excuse you at this point. Thank you very much.

Mr. JONES. All right, thank you, sir.

Mr. SAXTON. Let me introduce the third panel made up of Mr. Larry Herrighty, who is the Supervising Wildlife Biologist from the Department of Fish and Game from my home state, New Jersey, member of the Department of Environmental Protection; also Mr. James P. Leape, Senior Vice President of the World Wildlife Fund; and Dr. Teresa M. Telecky, the Director of the Wildlife Trade Program for the Humane Society of the U.S.; and Dr. Steve Beissinger

of the Ornithological Society of North America. Welcome and, Larry Herrighty, you may begin.

Mr. HERRIGHTY. Thank you very much, Mr. Chairman and members of the committee. I have already been introduced, so I will not do that again.

Mr. SAXTON. You might like to, if you don't mind, pull that microphone a little closer.

Mr. HERRIGHTY. OK.

Mr. SAXTON. Thank you.

STATEMENT OF LARRY HERRIGHTY, SUPERVISING WILDLIFE BIOLOGIST, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF FISH, GAME AND WILDLIFE

Mr. HERRIGHTY. I am here to support the reauthorization of the Wild Bird Conservation Act because I believe the Act is necessary to conserve wild bird populations that are in jeopardy because of commercial trade. The people of New Jersey feel likewise. In 1991 the New Jersey legislature overwhelmingly passed a wild bird act which prohibited the possession of wild-caught birds not already in possession. The exemptions are very similar to the Federal act. I have had the opportunity to read the public comment in the register as well as some newsletters put out by some organizations, and what I find is there is no objection to the primary intent of the Act, which is to preserve wild populations of birds, however there seems to be some concerns regarding the regulations and some misinformation out there. I would like to address those issues because we have heard them all in New Jersey and have been able to deal with them successfully.

The first issue is the need to scrutinize documentation in order to separate out illegal and legally-possessed birds as well as to qualify overseas breeding facilities. Some testimony heard today may indicate that certifying or dealing in scrutinizing captive birds is out of place, however I would submit that it is a necessary management tool without which the intent of the Act cannot be accomplished. Proper documentation of legal birds always helps the legal citizen and makes it easier for the purveyor in illegal wildlife to be detected. Requiring documentation and tagging has been a widely-practiced and long-used tool in the history of wildlife management in North America. For example, hunters are required to tag game animals, commercial fisherman are now required to log their landings. And whenever any of this wildlife is processed through the system, receipts or documents are always required to be with those parts in order to document that they were originally obtained legally.

In New Jersey, the Wild Bird Act requires that purchasers of exotic birds produce a receipt or document which states that the animal is domestically bred. In 1995 we processed approximately 4000 permits for the hobby category for wild birds, and we only have ten applicants today that are outstanding as far as citizens not being able to produce the documentation that we require by law. We are fortunate in that we also control the permits for the breeders and the dealers, and so if there is any question we can scrutinize their receipts and their sources of origin and we can rely on the fish and

wildlife agencies in other states if we have any questions. However, we do have a problem in that wild birds or birds from other sources that have passed through several hands may be coming into New Jersey without our ability to scrutinize them effectively. We also have a problem in attempting to control the Wild Bird Act, wild bird trade on a state level in that our citizens frequently go to other states, purchase birds during their vacations and are not being provided the required documentation that we ask of them when they come back into New Jersey and attempt to register their birds. My point here is that trying to do this on a state level is not the most effective way to do it and it creates some inconveniences for our citizens.

I believe that it is going to be a lot more difficult to require proper documentation from foreign sources, but I believe it is a necessary function of the Wild Bird Act. The U.S. Fish and Wildlife Service has indicated that apparently they are not going to require banding of domestic birds, and I believe they may or may not require banding on wild source birds, however—and I agree that just relying on banding alone is not effective in attempting to distinguish between a wild-caught and a captive-bred bird since a young hatchling taken out of a tree in some foreign country can easily have a closed band slipped over its leg. I will point out, however, that in New Jersey we do require leg bands for any bird that is now bred in captivity and any bird that is a pre-act bird or comes from another state. If it changes hands or is sold, we require that it has a butt-end band put on it. And the way we look at that is that we can then identify an individual bird and trace it back to its documentation. We have had many misconceptions and we get lots of phone calls in New Jersey relative to our documentation requirements. Once explained, the majority of people can easily meet our criteria. And in all those conversations that I have had, and they reach into the hundreds in the last couple years, no one has expressed dissatisfaction with our reason for requiring such documentation.

Like the Federal act, we have an exemption for people to import wild birds if they need to breed birds for conservation issues when they wish to increase the genetic diversity of the breeding stock. We have had one applicant in the last year since our regulations went into effect. My staff tells me it was the best application they have ever seen and we did grant that permit to import a wild bird for conservation breeding purposes.

The third concern that I hear is that implementation of the Act and its subsequent regulations will curtail the captive breeding of birds in the United States. In New Jersey we found that not to be the case. It makes sense that when you take away the source of cheaper wild birds it makes it easier for domestic breeders to make a living. Our consumers are educated. They understand the conservation issues involved in the Wild Bird Act and they understand the animal welfare issues. They have expressed to me that the last thing they want to do is buy a wild bird and become part of the trade. The fact that we have reduced competition from wild sources has caused our captive breeders in New Jersey to flourish. In 1991 we had approximately ten bird breeders that had applied for commercial permits. This year we have approximately 50 people that

have received permits to breed birds on a commercial level. I would point out that we have a lot of hobbyists that do that as well, but there seems to be a increased effort since the market is there now. So I would argue that we haven't hurt the captive breeder. We have helped them out.

In conclusion, I would like to say that New Jersey believes that the Wild Bird Conservation Act is on target and that the regulations are fair and seem to meet the objectives. We believe that control of export and import of wildlife is best left at the Federal level. We have had a longstanding and good relationship with the U.S. Fish and Wildlife Service and we hope that with the full implementation of the Act and the regulations that we can go back and look at our regulations and bring them into line so that the consumer will have a standard regulatory framework in which to conduct business or their hobby. Thank you very much.

[Statement of Lawrence Herrighty may be found at end of hearing.]

Mr. SAXTON. Thank you very much. Mr. Leape.

STATEMENT OF JAMES P. LEAPE, SENIOR VICE PRESIDENT, WORLD WILDLIFE FUND

Mr. LEAPE. Thank you, Mr. Chairman. I am Jim Leape, Senior Vice President and head of the conservation programs for World Wildlife Fund. In the late '70's and early '80's, many of us became concerned that the pet trade in wild birds was devastating wild populations around the world, especially in the tropics. The existing mechanisms of international law, in particular the Convention on International Trade in Endangered Species, known as CITES, provided some protection for birds, but not enough. Those protections are too easily eluded by fraudulent permits or defeated simply by the lack of capacity in exporting countries to assess and manage their own wild populations.

It is for that reason that in 1988 WWF convened the Cooperative Working Group on Bird Trade to try and come up with better protections for wild populations. That group brought together most of the organizations that are represented here today. In fact, Dr. Telecky and I, and Gary Lilienthal, Marshall Meyers and Susan Clubb on the next panel, all spent many hours in windowless rooms trying to hash out the issues that are reflected in this bill and in today's hearing. And I think those discussions can at least fairly be said to have laid the groundwork for this Act.

I think we can all agree that the Wild Bird Conservation Act has had an immediate and dramatic impact on the bird trade and a positive impact on wild populations. The data show that legal imports of birds into the U.S. have fallen from nearly half a million three years ago to only about 100,000 last year. And so already I think we can say the Act has been a success. Fish and Wildlife Service has moved promptly to implement some provisions of the Act, most importantly, allowing the import of species that are widely bred in captivity and not traded from wild populations, a list of 45 species that are therefore allowed for import, and also exemptions for imports for zoos, research and cooperative breeding programs and birds that are already personal pets.

Our principal concern is that the Fish and Wildlife Service has been slow to issue regulations on two other important provisions of the Act, and those are the provisions that would allow imports of birds from foreign captive breeding facilities and that would allow imports of birds sustainably harvested from the wild. The details of those two issues are best sorted out by the Fish and Wildlife Service as the agency expert in these issues and charged with sorting them out, but let me just highlight our basic concerns.

Principally we are concerned because both of these provisions are important to the conservation of birds in the wild. Allowing the import of birds from legitimate captive breeding operations overseas helps to reduce market pressures on wild populations. In short, by helping to meet the demand for pet birds, imports from captive breeding facilities help reduce the demand for smuggled birds, and that is in everybody's interests.

Similarly, allowing imports of birds that are sustainably harvested from wild populations also can be part of a long-term conservation strategy for these wild populations. In projects all over the world, WWF has found that when wildlife resources bring value to local communities, the prospects for conservation are brighter—people have an incentive to protect the birds and they have an incentive to protect the habitat upon which the birds depend.

Both of these exemptions also pose obvious challenges. We need to make sure that in allowing imports from foreign captive breeding facilities we are not establishing fronts for the laundering of wild birds. Secondly and more difficult, in allowing the harvest of birds from wild populations we need to be sure that those harvests are in fact sustainable. As I am sure Dr. Beissinger will talk about in more detail, that is no mean feat.

Our request is simple, and it is that the Fish and Wildlife Service move promptly to issue the final regulations. Those regulations need to recognize the hazards of allowing imports under these exemptions and establish requirements sufficiently rigorous to assure that we don't inadvertently open up trade that would be detrimental to wild populations. At the same time, the regulations should recognize that imports under both of these exemptions can play an important role in the conservation of wild populations and the regulations should not raise unnecessary barriers to imports under those provisions.

A related part of the Act that has also not received much attention is the mandate to the Fish and Wildlife Service to find ways to help countries develop and implement better programs to manage their wild bird populations to assure that those populations are protected and that any trade is sustainable. In my written testimony I have suggested that this can be done under an existing partnership between the Fish and Wildlife Service and USAID.

In summary, this Act is already making a big difference. It does not need any significant changes. Fish and Wildlife Service does need to move forward with implementation, issuing final regulations, finding a way to help range states improve their management of wild populations and trying to make sure that it gets the funds it needs to do that job. Mr. Chairman, we think the Act is

a success. We ought to leave it untouched and move forward with implementation. Thank you.

[Statement of James P. Leape may be found at end of hearing.]

Mr. SAXTON. Thank you very much, Mr. Leape.

Dr. Telecky.

STATEMENT OF TERESA M. TELECKY, Ph.D., DIRECTOR, WILDLIFE TRADE PROGRAM, THE HUMANE SOCIETY OF THE UNITED STATES

Dr. TELECKY. Good morning, Mr. Chairman. I am Teresa Telecky, Director of the Wildlife Trade Program for the Humane Society of the United States, and I would like to thank you for this opportunity to present testimony today on the Wild Bird Conservation Act on behalf of my organization and seven other animal protection and conservation organizations.

Mr. Chairman, there is a bird called the Spix's macaw. It is a beautiful, long-tailed, bright blue parrot whose natural home is the dry woodland of Northeastern Brazil. Spix's macaw is a famous bird because of the tragedy that has befallen it. Mr. Chairman, there is only one Spix's macaw surviving in the wild. What caused the near extinction of Spix's macaw is a price tag that hangs around the neck even of this last bird. Of course, Brazil banned the collection of this bird long ago, but collectors were willing to buy illegal birds and smugglers were willing to deliver the goods for a price. The last wild bird is being guarded from trappers who are relentless in their attempts to capture it.

For my organization and many others, what happened to Spix's macaw provides a dramatic example of the damage that has been caused by the trade in wild birds. It also provides an example of the lengths to which bird collectors will go in order to possess rare and valuable birds. And that is why on the third anniversary of the passage of the Wild Bird Conservation Act we implore Congress to reauthorize the Act without any changes that would make it easier for wild birds to be imported.

Mr. Chairman, the Wild Bird Conservation Act, although not even yet fully implemented, has already demonstrated success in the conservation of wild birds. The Act has reduced the number of birds imported to the U.S. from roughly half a million per year before the passage of the Act to only about 80,000 in 1994. The Act has allowed the American market for pet birds to shift to captive-bred birds, which make more appropriate pets than wild-caught birds anyway. In fact, gross retail sales of pet birds and pet bird products have almost doubled since passage of the Act. Reports from field biologists studying wild parrots indicate that the Act has provided much needed relief from trapping pressure on these species. And finally, since passage of the Act, at least an estimated 3 million birds have been spared the cruel death commonly encountered in the wild bird trade in which only 20 percent of birds collected from the wild make it to market.

Mr. Chairman, the Wild Bird Conservation Act has accomplished what Congress intended and it deserves to be reauthorized without any changes, changes that might diminish its success. The Wild Bird Conservation Act contains carefully crafted language that in fact required over six years of negotiation among organizations

with diverse interests, including conservation organizations, animal protection organizations, the pet industry, aviculture and zoos. The result is a reasonable law that allows some exceptions without flinging the doors open to abuse. The Act allows the importation of birds for aviculture. It allows the importation of captive-bred exotic birds from foreign qualifying facilities. It allows the importation of 45 species of birds that are so commonly bred in captivity that no one even bothers to collect them from the wild anymore. It even allows the importation of wild-caught birds when it can be shown not to cause harm to a wild population or result in unacceptable mortalities. Finally, it does not regulate the trade in birds born in this country, unless of course they are of a species that is commonly smuggled, in which case the birds may be required to be marked, but this is reasonable. And even though we did not get everything we wanted out of this negotiating process, we have not reneged on our agreement to give full support to the Wild Bird Conservation Act.

In contrast, we know that others have expressed concern about sections of the Wild Bird Conservation Act, and especially they are frustrated with the length of time that it has taken to promulgate regulations. One complaint we have heard is that it is too difficult for foreign breeders to become qualified under the Act, but, Mr. Chairman, the regulations implementing this portion of the Act have not even been promulgated, so they haven't even been tested. The process of qualification of foreign bird breeders must be stringent enough to ensure that birds imported from foreign facilities are truly bred in captivity or the purpose of the Wild Bird Conservation Act will be defeated. Rare birds will be collected and imported under the guise of being captive-bred. As demonstrated by several recent undercover operations conducted by the U.S. Fish and Wildlife Service, it is very easy to pass off a wild bird as one that was bred in captivity.

Another complaint we have heard is that it is too difficult for breeders to obtain permission to import birds for captive breeding, but in fact only 12 people have even applied to import birds under the cooperative breeding program exemption and only two of these applications have been denied. In the past decade an estimated 7 million birds were imported to this country. We believe that there already are enough birds in this country to supply most breeders with the birds they need. The Wild Bird Conservation Act encourages breeders to evolve from their former pattern of reaching for wild birds every time they need new breeding stock. Instead it encourages breeders to cooperate with one another to fully utilize the vast gene pool which exists in this country.

In closing, Mr. Chairman, I want to return to the story of the Spix's macaw. Just a month ago a captive Spix's macaw was released into the wild near that last wild bird. It is hoped that the two will mate, produce offspring and begin to replenish this very rare species. Similarly, it is our hope that the Wild Bird Conservation Act will continue to protect wild birds today so that there will not be stories like the Spix's macaw tomorrow. Only reauthorization of the Act without changes will produce that result. Thank you, Mr. Chairman.

[Statement of Teresa M. Telecky may be found at end of hearing.]

Mr. SAXTON. Thank you very much. Mr. Beissinger.

STATEMENT OF STEVEN R. BEISSINGER, ASSOCIATE PROFESSOR OF ECOLOGY AND CONSERVATION BIOLOGY AND CURATOR OF ORNITHOLOGY, SCHOOL OF FORESTRY AND ENVIRONMENTAL STUDIES, YALE UNIVERSITY

Dr. BEISSINGER. Mr. Chairman and members of the subcommittee, thank you for the opportunity to address this hearing. I am a professor in the Yale School of Forestry and Environmental Studies and a Curator of Ornithology at the Peabody Museum. I would like to testify today on behalf of eight organizations of professional ornithologists who study birds. My testimony consists of five consensus recommendations for you about the Act.

First, reauthorize the Exotic Bird Conservation Act. Until the passage of the Act, wild birds were being decimated. You have heard the stories. You have heard how the trade was ineffectively regulated by national or international regulations that were supposed to ensure that trapping for trade was sustainable. It did not. It caused quite a large number of species declines and was largely ineffective.

Captive breeding was the major source of individuals in the trade for only a handful of species. Most other birds in the trade were coming from the wild. The numbers of wild-caught birds were indefensible. The sale had to be stopped before more species were driven to the situation of the Spix's macaw. The Act accomplished this goal and the need for it remains today. Populations of most species have been severely depleted by decades of overharvesting and require several generations or probably ten to 20 years for them to begin to recover.

The second point I would like to make is that captive populations do not conserve endangered species in the wild. Captive breeding to recover endangered species requires birds to be introduced to the wild at the earliest possible opportunity. Disease risks must be minimized by placing birds in single-species facilities, ideally within their native range to minimize the exposure to and introduction of exotic diseases to the wild. Special care must be taken to slow domestification of birds before they become unlikely to successfully survive when reintroduced. All captive breeding programs must also be fully integrated with field efforts to protect habitats and correct the factors that originally caused the populations to decline.

Avicultural collections do not meet these requirements. Birds are usually kept in close proximity to many other species, so they are high disease risks to reintroduce. Furthermore, aviculturists select birds to become domesticated. Promotion of captive breeding as conservation by aviculturists is sometimes a rationalization for keeping exotic birds in captivity in private collections. This excuse was used to justify illegal activities by convicted cockatoo smugglers last summer.

My third recommendation is that captive breeders do not need continued access to new stocks. Only limited genetic diversity is required for avicultural collections not used for reintroduction to the wild. Fifty to 75 birds per species will capture the genetic diversity

for this purpose. All species of commercial importance are already represented in sufficient numbers in captivity to constitute a viable gene pool under active cooperative management. Species with fewer individuals obviously are not of commercial importance. If aviculturists would manage their gene pools by moving birds among private collections, they could take advantage of the great genetic diversity that is already present.

My fourth recommendation is not to amend the Act to exclude any bird bred in captivity or overemphasize sustainable harvesting. Captive breeding has the allure of potentially reducing pressures on wild populations, but amending the Act to allow importation of any bird bred in captivity will increase the number of wild birds harvested. Because the demand right now far exceeds the capacity of breeders to produce exotic birds, there is a great impetus to harvest birds from the wild and sneak them into the trade, as you have heard, as captive-bred individuals. Presently no marking system, including closed-ring banding systems, can reliably detect laundering of illegal birds. It requires a well-documented pedigree and tissue samples for DNA analysis. Serious funding would be needed to enforce such legislation. The simplest and most cost-effective way to regulate captive breeding facilities outside the United States is the present list of species that are bred almost entirely in captivity and the licensing of breeding facilities on an individual basis.

Sustainable harvesting could also provide conservation and trade benefits, but also requires a degree of control that is difficult and expensive to achieve. Important biological information to determine sustainable levels of harvest have not been gathered for even a single species in the trade, and no ranching projects with wild free-flying birds have ever been done. Without strong controls currently in the Act, attempts to sustain harvesting would likely cause more conservation problems than they solve.

Lastly, we would like to suggest that you do something. Do amend the Act to include all bird families. Ten bird families were exempt from this Act as a result of special interest group lobbying. Excluding these so-called game birds and potentially other families such as raptors from this legislation reinforces a market for them and gives no impetus to develop captive management programs. Only a handful of these species are covered by the Endangered Species Act or CITES. Many of the rest are thought to be declining in the wild. Not only are these families threatened by habitat destruction, but they are often hunted, or in the case of raptors, persecuted throughout their range. It is simply inappropriate to exclude bird families from a conservation act. Instead, let the Fish and Wildlife Service regulate which species should be traded. Thank you very much, Mr. Chairman.

[Statement of Steven R. Beissinger may be found at end of hearing.]

Mr. SAXTON. Thank you very much for your testimony. You all gave very good articulate testimony and I appreciate that very much.

Mr. Herrighty, you testified that you believe that as a representative of the State of New Jersey, which has its own wild bird pro-

gram which exempts New Jersey, I believe, from the provisions of this Act, is that correct?

Mr. HERRIGHTY. No, that is not correct. Ours is stricter in that we don't have as many exemptions on birds on the so-called captive exempt list, but we are not exempt by any Federal regulations.

Mr. SAXTON. It is fair to say that the Federal law does not supersede the state law, is it not?

Mr. HERRIGHTY. Federal law does supersede the state law. States may be stricter, but not more liberal.

Mr. SAXTON. So in your case the state law applies?

Mr. HERRIGHTY. Yes.

Mr. SAXTON. How much—and is your law more stringent than the Federal law? I should say our law of New Jersey.

Mr. HERRIGHTY. Yes. Our law is more stringent in that the Wild Bird Conservation Act will—as it is currently written it has a larger number, 45 birds that we heard, that are now allowed to be imported and that are considered totally captive-bred. That is all that is being traded. In New Jersey there are only five species of birds that fall under that category. Also we require banding as our act mandates that we come up with a methodology to distinguish wild-caught or pre-act birds that are wild caught from any birds now coming into the state or bred in captivity. So we have banding or microchipping that is a requirement for any birds now bred in captivity in New Jersey.

Mr. SAXTON. Can you tell me what your budget is in New Jersey?

Mr. HERRIGHTY. My budget for my exotic section, which deals with all non-game and exotic species as far as permit requirements is about $130,000. I have one zoologist, one technician and several clerks. We increased the permit fee for bird hobbyists from ten to $20 in order to raise additional funds to help administer our wild bird act regulations. We have taken some heat for that and we may adjust it as we see what our real costs are. Our problem is that we are under a hiring freeze in state government. I have the money to hire additional people, but I cannot do that right now.

Mr. SAXTON. So we in New Jersey spend on your program, on the—in the neighborhood of $130,000?

Mr. HERRIGHTY. That is for the administration of all non-game and exotic permits, which include wild birds, parrots and others, yes.

Mr. SAXTON. It is kind of interesting this is the feds. We feds spend, apparently, about $100,000 to administer the Act for the whole country and New Jersey spends $130,000 for our little state. It is kind of an interesting contrast. I am not quite sure how we feds are so efficient.

Let me ask Jim Leape and Dr. Telecky and Dr. Beissinger, in 1972 when the Wild Bird Conservation Act was—92 when the Wild Bird Conservation Act was passed, it had the active support of the environmental community, including the Pet Industry Joint Advisory Council and the American Federation of Aviculturists. Today these two groups, the two groups that I just mentioned, are seeking changes or repeal of the Wild Bird Conservation Act. Would you respond to why you think that is and are there some changes that we need to make in order to make this bill more efficient? And if so, what do you think they are?

Mr. LEAPE. I will go first. I haven't heard their testimony yet, so I don't know specifically what concerns they have. I think there is some grounds for frustration. The implementation of part of the Act has been slow, in particular the two sets of regulations that I mentioned in my testimony. We do think that the regulations already in place, specifically those for permits, that allow permits or authorized permits for cooperative breeding programs are legitimate regulations. I believe that the requirements imposed—the two-page permit application and the information asked of each cooperative breeding program—are a reasonable set of requirements. I think there has been frustration that sometimes the processing of permits takes too long. My understanding is that on average it has taken something like six months. Now although some of that may be slowness in the applicant providing necessary information, clearly some of it also is slowness in processing permits. And as you suggest, $100,000 for the entire country is not a lot to administer a permit program and I would be surprised if we had any dissent on this panel or the next that the government ought to have more resources to make this program work, both to make it work efficiently for those who need permits and also for it to be effective for those concerned about conservation of wild populations.

Mr. SAXTON. Thank you. Dr. Telecky.

Dr. TELECKY. Yes. Well, like Mr. Leape I haven't seen AFA and PIJAC's testimony on this issue, but as I testified today, I know of at least two areas that they are concerned with. One is the foreign qualifying facilities, but I think in that case it is a little bit of the fear of the unknown because those regulations have not been finalized yet and so it really hasn't been put to a test. The other issue that I am aware of is the permit application procedure for cooperative breeding programs, which I also addressed. There is a permit procedure out there and operating right now, and as I testified, there have been 12 applications and only two of those have been denied. And I believe the Fish and Wildlife Service is trying to streamline that process a little bit more. I also would agree with Mr. Leape in that I would assume that additional funding provided for the purposes of implementing the Wild Bird Conservation Act could only, you know, help in terms of getting the regulations out there a little bit faster and getting those permits processed a little bit more quickly. Thank you.

Mr. SAXTON. If it is taking six months to get a permit, at least in many cases, it would seem to me that this Act would be working very well in terms of keeping the number of birds that are imported into the country at a low number and certainly that was not the intent of this panel when the bill was passed. Would you agree with that statement?

Dr. TELECKY. I would certainly agree with that.

Mr. SAXTON. Dr. Beissinger.

Dr. BEISSINGER. Yes, Mr. Chairman. This Act, and the changes requested in the Act, are because the Act results in a change in business. The business expectations now are different. No longer can aviculture and the pet industry have complete, uncontrolled access to wild bird populations. That results in some changes that need to be made within the avicultural community to adjust, and those changes take time. Aviculturists need to organize themselves

in a different manner than they have worked before, and that change means that they need to coordinate among themselves the exchange of their birds and develop stud books and manage their genetic resources and manage their birds, not just consider them as personal pets, not just only reach to the wild each time they would like to have new blood stock. This kind of organization will take a little time to put in place, but the avicultural community stands to gain much by it if they would do that. So I do think that this is the other issue that we have to deal with here, changes that we are asking of this community that result from no longer relying on the wild populations.

Mr. SAXTON. Well, thank you very much. I have no further questions at this time. The members of the subcommittee may have some additional questions, particularly those who are not able to be with us this morning, and so the record will remain open. We may ask you to respond to further questions in writing. Thank you very much.

Now let me introduce our fourth and final panel: Mr. Frank Bond, who is the General Counsel of the North American Falconers Association; Mr. Marshall Meyers of the Pet Industry Joint Council; Dr. Susan Clubb of the Association of Avian Veterinarians; and Gary Lilienthal, General Counsel to the American Federation of Aviculture. Once again, each of you will have five minutes for your oral testimony. Your written testimony will appear in the record as you submit it. And we will begin with Mr. Frank Bond. You may proceed, sir.

STATEMENT OF FRANK BOND, GENERAL COUNSEL, NORTH AMERICAN FALCONERS ASSOCIATION

Mr. BOND. Thank you, Mr. Chairman and members of the committee. I have submitted a written statement which I would like to have printed as part of the record.

I am Frank Bond. I serve as General Counsel for the North American Falconers Association and have had the pleasure of being at a committee table like this many times before. Unfortunately when Mr. Leape had suggested that they put together the working group to deal with this issue, we were not invited to that windowless room to collaborate with them. And frankly, it wasn't an oversight on their part, because the first iteration of the Act in 1992 really didn't deal with the issues of captive propagation with respect to raptors and the import/export problems dealing with Falconiformes, the family Falconiformes including raptors, until the final bill came out when we found we got swept in as well. And so for that reason I apologize for coming to the table three years later, but want to express our problems and our opinion.

Falconiformes, birds of prey, can only be used for several purposes: education, conservation programs, captive propagation, falconry, zoological programs, and rehabilitation purposes. Probably as a group of birds it is the most highly regulated group of birds in North America and indeed in the world. They are listed—virtually every single member of the family of Falconiformes is listed under Appendix I or Appendix II of CITES. For somebody to come in and import a bird or export a bird he has to comply with 50 C.F.R., the Code of Federal Regulations, at 21.28, 21.29, 22.24,

21.30. He has to seek an MBTA import or export permit, and he has to comply with the additional requirements imposed by CITES. And then for those few birds, not only the peregrine falcon, for any import or export then he has to also seek an additional ESA permit.

When the ranking minority member had said it was a first-time regulated group of people and they are getting used to the Act, we have been used to it for a long time. If Mr. Striegler of law enforcement were sitting here, he would recall a meeting that I had with Mr. Doggett, Chief of Law Enforcement with the Fish and Wildlife Service, who said isn't there any way that we can decrease the number of regulations dealing with raptors. And frankly, we have resisted. We have a marking system. We have a requirement of apprenticeship. We have very stringent requirements for facilities and examinations. The same things go for people who would seek to captively breed raptors in captive propagation programs as well.

So we come to point out to this committee that despite all of those purposes, there is one purpose that we are not allowed to keep raptors for, which is the basic intent of this Act; and, that is for pet purposes. You cannot keep a raptor in America for pet purposes, so the basic intent of the Act really doesn't adequately cover any problems with raptors that might not be covered with all of the other acts. Consequently, notwithstanding the recommendation of the gentleman from Yale, we really believe that the Falconiformes family ought to be exempted from the Act so that the WBCA more appropriately can be focused on the real problems that you discussed with the previous panels and more broadly with the remainder of this panel.

What WBCA means is that for people who are dealing with raptors, it means just one more permit. That is, we are up to five permits instead of just four now without the WBCA. I will tell you, though, that with respect to the fact that we have had to deal with it for the past couple of years until this reauthorization hearing, of the captive propagation programs which have been approved, probably the majority have been for captive propagation programs dealing with raptors. And that is frankly because the Service has dealt with us for a long time, knows who we are and knows the standards that we have to live with. So I am sure it has been a lot easier for the Service to deal with us than it has for some of the other bird groups.

But it brings us to a broader problem, particularly with the Service and the permitting activities. We routinely have permit requests that go six to nine months without a decision. We are very—feel very lucky any time it is under 120 days, and what—when people talk about the system and feel that it maybe doesn't need much more than a little tweaking, a little work here and there, I find that the permit system is not broken. It doesn't need a little tweaking. The permit system at the Fish and Wildlife Service is in complete meltdown. It needs to be rebuilt, and I think this committee and other committees in Congress that deal with it really need to deal with that part of assisting the Service to integrate a program so that we have single permitting system for the various purposes and to assist them in their capacity to issue permits timely within the standards that they are being guided by. And I do hope that

when you look at this you can look at those particular problems, but as you are looking at this particular Act that you really closely define what it is that you intend to do with the Act, the families of birds that you intend to really attempt to regulate and to control.

Then the last thing, Mr. Chairman, is I think the lady from the Humane Society makes a point. We have to treat these birds humanely. Falconiformes can only be shipped one per container. Those standards are set by the International Air Transport Association under Container Requirement Number 20. We simply aren't facing those kinds of problems that the pet bird industry is facing. Consequently, we think that probably four permits plus these standards are enough, and that probably we are adding to the burden the Service now carries by having one more permit applying to Falconiformes. Thank you, Mr. Chairman.

[Statement of Frank M. Bond may be found at end of hearing.]

Mr. SAXTON. Thank you, Mr. Bond. Mr. Meyers.

STATEMENT OF MARSHALL MEYERS, EXECUTIVE VICE PRESIDENT, GENERAL COUNSEL, PET INDUSTRY JOINT ADVISORY COUNCIL

Mr. MEYERS. Mr. Chairman, my name is Marshall Meyers. I am appearing today as Executive Vice President and General Counsel for the Pet Industry Joint Advisory Council. I appreciate the opportunity to testify today on implementation or lack thereof of this Act. PIJAC has been involved with this issue since its genesis. When I hear today about the fear of the unknown, both from the Humane Society of the United States and from Mr. Studds, I guess I am just an old-time country boy here in this town who has become very fearful of the unknown in dealing with Federal regulators. I don't really believe they are there to help us.

Passage of the Wild Bird Act was a result of significant compromises from a number of varied interest groups. Unfortunately, some of the reservations that we raised during that period have become a reality. Three years after enactment the pet industry, aviculture and others supportive of sustainable use programs anxiously await implementation of those portions of the regulations that would facilitate this activity and also that of facilitating the approval of foreign captive breeding facilities.

While it may have been the intent of Congress that the Act would accomplish these laudable goals, we question if that is the Service's real intent. The proposed regulations governing approval of foreign captive breeding facilities and foreign sustainable use conservation export programs are so restrictive, burdensome and full of disincentives, not incentives, for engaging in these activities as contemplated by Congress. Regulations need to be implemented quickly for this Act rather than languishing in the recesses of the agency.

The impact of the Act on the commercial pet bird industry has been and continues to be significant. It has destroyed the import industry and adversely affected the supply of birds both captive-bred and wild-caught, prior to enactment approximately 30 to 40 active importers, today six to seven.

Somewhat amused to hear the statistics about the growth in the industry when the state of the industry report, which is published in the spring of each year, shows the growth in the bird industry, including birds and bird products, was 3.8 percent. The overall industry had substantial growth, but not in the bird products and the number of birds. And also when I heard the comments from New Jersey that they have issued 4000 permits. National surveys indicate, depending which survey, between 10 or 15 percent of U.S. households own birds. I suspect then we have an incredible number of cockatiels, budgies and common—those five species in New Jersey and that everybody in New Jersey is licensed. I don't believe it. I think it is highly improbable, that the New Jersey law is really not effective.

But despite these implementation problems, be it at the state or the Federal level, we remain hopeful that this Act can become an effective conservation tool. Its future success will require several amendments and far greater Congressional oversight than has existed in the past three years. If this Act is meeting its objectives, amendments, not repeal—and we have never advocated repeal, but we have been classified or characterized as enemies of this Act—are required. And possibly they are required because the Service feels that it is constrained by some of the language and the criteria and therefore that they have no alternative but to put in some of these overly demanding requirements.

Therefore, we believe that Section 113 to carry out the original intent regarding CITES Appendix III birds that are not covered by—should not be covered by—this Act unless they are coming from the country that lists them. The Appendix III issue is complex. Appendix III listed species are not subject to the CITES review and scientific scrutiny of the other species. In fact, a country can put them on and hold the rest of the world hostage.

Think, sir, if the State of California decided to put in some type of restriction prohibiting the export of a particular species out of the State of California, if the same standard of the act is applied to foreign nations applied to the United States, New Jersey, Texas, Montana could not export those animals raised in their state, and your individual state would have had no say in how that came about. So if we are going to start infringing on sovereign rights, then maybe we should start infringing on states rights. I think this is an issue that should be looked at very carefully.

Number two, reauthorize the Act with recommendations for adequate funding to properly implement. Number three, direct the Secretary to fully implement the Act by expeditiously promulgating user-friendly, reasonable and workable regulations with respect to the two remaining areas that are still in question and to look at Sections 106 and 107, particular with respect to importing captive-bred birds to make sure they can come in in a more freely way than proposed. And periodically convene Congressional oversight hearings at least annually until the committee is satisfied that the Act is being properly implemented.

I have included in my written testimony some detailed comments regarding the rules governing the approval process of the two outstanding areas. The proposed criteria are detailed. They are staggering and may impose regulations and data collection require-

ments even our government couldn't do and may have to try to do to allow the export of box turtles under Appendix II. Most importantly, U.S. Government would impose these requirements and possibly effect the sovereignty of some of these foreign governments. No foreign captive breeder, no foreign government, no U.S. importer will make the substantial investments in light of the high probability of denial of Fish and Wildlife Service by the risk of running afoul of overly aggressive, overly zealous Fish and Wildlife enforcement.

It should be emphasized we are not asking and have never asked for repeal, and I say that again. But I also don't want the committee to be misled by departmental protestations regarding criticism of proposed regulations and claims that such criticism is premature. No matter what excuses or cloak the Department wraps around its actions by characterizing the regulations as tentative, conceptual or ideas published for public comment, the underpinnings clearly indicate a different departmental philosophy.

Conclusion is simple. We must carefully scrutinize the events of the past three years, including the language of the regulations, and then look at what the Act has failed to do. And the bottom line is also simple, that adopting unobtainable criteria is nothing more than a smoke screen. It is an effective ban, not a conservation tool. We are willing to work with this committee and with the Department to try to get these regulations out and to make this an effective conservation act, but we must have regulations to be met, not impossibility of compliance. Thank you.

[Statement of Marshall Meyers may be found at end of hearing.]

Mr. SAXTON. Thank you very much. Dr. Clubb.

STATEMENT OF SUSAN L. CLUBB, DVM, ASSOCIATION OF AVIAN VETERINARIANS

Dr. CLUBB. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify before you today. I am Susan Clubb and I represent the Association of Avian Veterinarians, a professional association of some 3000 veterinarians. The AAV has a strong commitment to conservation of wild and captive birds. Unlike any other veterinary organization, we donate one percent of our net income to support conservation projects every year. We support the WBCA and we feel that the Act should be reauthorized, but with amendments. Some recommendations for amendments are contained in my written testimony, and we support the amendments proposed by AFA.

My written testimony is before you, but I would like to speak to you today from the heart. As a point of introduction, I worked as a veterinarian for a large importation company for 11 years. I know firsthand the problems of the trade and I personally worked toward resolution of these problems and reasonable legislation to solve them. I was a member of the cooperative working group on bird trade representing AAV. I continue to work and live as an avian veterinarian and an aviculturist.

Mr. Chairman, an exemption is not an exemption if it is unattainable. Being unattainable may be real or it may be conceptual. We are here today because many people affected by this Act feel that some sections of the Act and the regulations promulgated by

the Service are burdensome, restrictive and unattainable. As a department in the largest government or business in the world, the U.S. Fish and Wildlife Service should act as a service to those affected. This is not the perception that is prevalent in the public sector. Obviously the Service has a law enforcement responsibility, which is vital to the control of trade, but encouragement of legal, legitimate and non-detrimental trade is the American way of doing business.

It is with some trepidation that I make these comments because I have in the past and will continue to seek permits from the Service. Past experiences as an applicant have often been frustrating at best. I hope as a result of my comments today that the future will not be more frustrating.

Laws are not written for the lawless. They are guideposts by which law-abiding citizens conduct their personal lives and businesses. No amount of regulation will prevent the determined criminal from smuggling. Extensive regulation, however, does suppress honest enterprise. The best law cannot work if the regulatory agents entrusted with enforcement are tardy, insensitive or overzealous. Would this description fit U.S. Fish and Wildlife Service handling of the WBCA? Is it appropriate that final rules for two of the most important exemptions allowed under the Act have not been published almost three years after enactment? These are questions for this committee. I would like to challenge the Service or this committee to examine this issue, perhaps by a poll of persons making previous applications, WBCA applications, CITES or otherwise. Ask them about their experiences with the Service. Perhaps my perception is not widespread, but I think it is.

To summarize my written testimony, I would like to address some specific areas of concern. Regarding Section 115, marking and record keeping is vital to successful avicultural management, but government involvement or mandated marking is inappropriate. Many veterinarians routinely remove bands from birds due to the risk of injury. The Service has stated that they don't intend to use this section. It is contentious and has no conservation benefit. USDA already marks legal psittacine (parrot) imports. This section should be removed from the Act.

Regarding Section 107, subsection (b)(6), all birds exported from an approved facility must be bred at that facility. This section was viewed as potentially problematic in the legislative history. It makes economically viable exports from small entities virtually impossible. This section should be removed.

And finally, as expressed earlier, we are concerned about the handling of the WBCA by the U.S. Fish and Wildlife Service. We support the WBCA and reauthorization of the Act. We also genuinely hope that the Service will be fair and reasonable and will process applications promptly and with sensitivity and respect for the public.

Of the 673 WBCA permit applications received by the Service as of the end of August, 620 or 92 percent were for pet birds of U.S. citizens returning to the U.S. What about other applicants and the other exemptions? There have been only 53 applications for all the other exemptions. 34 of those applications or 64 percent were approved. Are people afraid to apply?

Mr. Chairman, we ask you to evaluate this situation and instruct the Service to work in a way which is consistent with the intent of Congress and with the best interest of our citizens. Mr. Chairman, I appreciate having the opportunity to testify before you today and will be available for any questions. Thank you.

[Statement of Dr. Susan L. Clubb may be found at end of hearing.]

Mr. SAXTON. Thank you very much. Gary, you may proceed.

STATEMENT OF GARY LILIENTHAL, VICE PRESIDENT AND GENERAL COUNSEL, AMERICAN FEDERATION OF AVICULTURE, INC.

Mr. LILIENTHAL. Thank you, Mr. Chairman. Distinguished chair and members of the subcommittee, my name is Gary Lilienthal and I am the Vice President and General Counsel and an aviculturist testifying on behalf of the American Federation of Aviculture and the 300 avicultural organizations, exotic bird breeders and businesses which have eagerly signed onto Aviculture's written testimony.

I would like to take a moment to recognize the dozens of aviculturists from across the United States who have taken time and their personal funds to be here today. We aviculturists are the people who keep, breed and raise exotic, non-native birds. We are dedicated to the conservation of exotic birds both in the wild and captivity. The mission of AFA is to preserve avian species on a worldwide basis. AFA is the largest exotic bird humane and educational organization in the United States.

In 1992 AFA had serious misgivings about certain elements of the WBCA. Yet we wholeheartedly supported its mandate for conservation and wise use of exotic birds. Aviculture's support was ultimately based on one important cornerstone of the WBCA, promotion of captive breeding and the free importation of captive-bred birds into the United States. Congress agreed and they named the WBCA the "Breeders Bill." We are here today because the WBCA has yet to fulfill its promise. We do not now seek repeal of the WBCA. In spite of what you may have been told, we want to see it work.

In order for it to do so, the WBCA regulations which have effectively caused a ban on the trade in exotic birds, even in captive-bred birds, must be redirected to the conservation and captive breeding principles that the WBCA intended. Mr. Chairman, Congress intended that the WBCA be the Wild Bird Conservation Act. Somewhere along the way to the Act being implemented through its regulations it became a different WBCA. It became the Way to Best Control Aviculture Act.

We believe that the following specific changes must be made in order for the WBCA to be effective. And I will enumerate them. They are specifically set out in our written testimony. First, authorized funds must be appropriated and used for sustainable use studies in range countries to promote sustainable trade where appropriate. Second, the actual scope of the smuggling problem and the enforcement activities of the Fish and Wildlife Service's deterring of legitimate aviculture should be investigated. Representative Ewing spoke eloquently for our fears too. Third, Section 105 should

be amended to specify that the WBCA's coverage of exotic birds listed on Appendix III of CITES should only relate to birds found in the countries of listing, as was intended by both the WBCA and CITES. Fourth, the permit process under the regulations in Section 112(2) relating to the importation of personal pet birds should be simplified. And we are delighted to hear about Fish and Wildlife's progress in this. Fifth, Section 112(4) should be amended to eliminate the regulatory requirement of tracking and reporting of U.S. captive-bred offspring of imported birds. Sixth, regulations under Section 107, which will promote captive breeding of exotic birds and ensure the free importation of captive-bred birds into the United States, must be promptly adopted based upon the six-point approval process proposed by AFA in its written testimony. Seventh, Section 106(b)(1) must be amended to provide that if a species is regularly bred in captivity and wild-caught members of that species are not in legal trade, it shall be placed on the captive-bred species list as intended by Congress. Current regulations improperly disqualify species regularly bred in captivity from being on the list if any members of that species are in illegal trade. This policy promotes smuggling. I would point out to the Chair that 45 species are approved. It is my information that approximately 8600 species exist. Eighth, sections 114(c) and 115 on marking should be eliminated. Finally, a new section must be added to provide that notwithstanding any law, regulation or policy to the contrary, exotic birds bred from parent birds in the United States shall be considered legal regardless of a legality of their ancestral stock.

AFA and aviculture sincerely hope that the various communities concerned with the trade in exotic birds will understand that these recommendations are constructive and will implement the intent of Congress for sustainable trade and the promotion of captive breeding and importation of captive-bred exotic birds into the United States. If the humane, conservation, animal rights, anti-trade and government regulatory communities cannot wholeheartedly support the eventual sustainable trade in and wise use of wild-caught exotic birds pursuant to appropriate management programs and the free trade and importation of captive-bred exotic birds into the United States, then AFA would consider requesting the repeal of the Wild Bird Conservation Act as it would then be clear that the support by these groups for this law is really based upon using the WBCA as a ban on trade in exotic birds, captive bred or otherwise. This would destroy aviculture and it will not save the birds.

Thank you for this opportunity to present our views, and I would be happy to answer any questions.

[Statement of Gary Lilienthal may be found at end of hearing.]

Mr. SAXTON. Thank you very much. We will certainly take note of your specific recommendations on various sections of the Act and try to evaluate those. I would like to try to find a bottom line, and all of you seem to indicate that you think the Act is a good idea, that there are maybe some changes that ought to be made to it. I didn't hear anyone say that it shouldn't exist at all, and so I guess it is our job to try and determine what kinds of changes we need to make either to the law or administratively to make it work so that you don't have to wait six to nine months to obtain a permit.

Now when I look at one of the aspects of this, and I brought this up when Mr. Jones was testifying, and that is that we estimated as a committee that this could cost as much as $5 million a year to do an adequate job in carrying out the provisions of the Act. Mr. Jones testified, I think I heard correctly, and some of you folks are still here, you can correct me if I am wrong, that we spend about $100,000 a year carrying out the provisions of the Act. Now it is impossible, it seems to me, to do any kind of an adequate job of either promulgating regulations in an adequate fashion or in carrying out the permitting process with $100,000, which pays a person or two to do the job for the entire country. Do you see that as a primary problem that we have here? I am not a—I am a fairly conservative guy when it comes to spending money, but if we are going to have a law that says that certain things are provided in the law that have to be done, somebody has to request the money to do it. Is that a fair assessment? Do I gather that correctly? Anybody want to comment?

Mr. MEYERS. Mr. Chairman, I think it is absolutely a fair question, but it goes to a broader problem. I think you probably better look at the whole permitting system, not out of criticism, but out—in terms of providing some assistance. I believe that maybe there was $100,000 dedicated specifically to the WBCA, but I believe it is fair to characterize Mr. Jones' testimony that they had approximately $500,000 to run the whole program. I think this is just——

Mr. SAXTON. I think he said they had—they requested and received $500,000 in fiscal year '94.

Mr. MEYERS. Oh.

Mr. SAXTON. They requested zero in fiscal year '95 and zero in fiscal year '96, and transferred some money from some other accounts. And if it is more than $100,000 that took place in transfer, please somebody in the first—that is what it is?

Mr. MEYERS. It seems to me from what I heard from the testimony that they just wrapped it in, but I am not going to answer for him.

Mr. SAXTON. You know, we—just to further make this point, the African Elephant Conservation Act we appropriated last year $1.2 million, which I assume the Administration requested part of. The Rhino and Tiger Conservation Act we appropriated $400,000 and the Wild Bird Conservation Act that we are talking about today is a goose egg, and that didn't work, it seems to me. Doctor?

Dr. CLUBB. If I may make one comment in that regard. In January of this year I became very frustrated because of an excessive delay in issuance by the Service of an Appendix I captive-bred export permit, CITES permit, and I submitted a FOIA (Freedom of Information Act) request to the Service for similar exports of Appendix I captive-bred psittacines in the previous year, in 1994. Seven months later I got the reply on the FOIA request. It was a one-page reply and the cover letter stated that due to difficulties in dealing with their computer system it took them that long to supply this information. I think that our government should have top quality computer equipment. If they simply have the tools to work with, then perhaps they can work efficiently. If it takes them seven months to generate a one-letter reply to a FOIA request, then obviously their technology is not adequate in today's time.

Mr. LILIENTHAL. Mr. Chair, I would like to respond, as well. I see this much more globally, perhaps, in that I think that the lack of funding is a breach of faith with the groups, including three of the people sitting on this panel, that sat for five years and gave their time to help this law come into effect, as well as a breach of faith with the congressmen who are on this committee. It is a breach of faith with the countries that were told that if they could put together sustainable use programs, they would again be able to trade with the U.S. if that trade were properly managed. Without the funding which was supposed to be used in part to help establish sustainable use programs—I don't think I heard here, and I would like to be corrected if I am wrong—that anybody said that the birds which are not coming into the United States anymore aren't going elsewhere. So we haven't solved the problem. We have merely redirected it, perhaps. Without the money to fund sustainable use trade and management programs in foreign countries, we aren't saving birds. We are merely covering up the problem.

There are 18 million pet birds in the United States. And we talk about $1.2 million for African Elephants and some millions of dollars for tigers, and while I am not against that, I would think that zero for exotic birds is a little bit, just slightly out of proportion.

Mr. SAXTON. I am for conservation of elephants and rhinos and lions and tigers and endangered species and all the others. I can't for the life of me understand why birds aren't just as important. Mr. Meyers.

Mr. MEYERS. Mr. Chairman, also during the deliberations there was some discussion about how other parts of the world deal with this issue. The European Union does work very closely with underdeveloped countries in helping them coming up with quotas that are allowed into Europe. They put money out into the field, through NORAD, which is a Norwegian assistance fund. They put money where their mouth is. This Act put money up, but they didn't put it where our mouth is. And I think that is the bottom line, and I think if we could get some money appropriated, do some foreign assistance programs, come up with some model programs that could meet the final regulations, I think that is what is desperately needed.

We are cautious, however, and when I made my comments about the amendments, the Department may well feel that they are somewhat constrained because of the scientifically based language that was written into the statute and undefined criteria. The money to run a study to meet the criteria that are proposed, $5 million will not be enough. And I think that is the thing that Congress has to address.

Mr. SAXTON. Let me just ask a question for anybody to respond to who would like to. Have any regulations issued by the U.S. Fish and Wildlife Service had the effect of making it virtually impossible to legally import captive-bred exotic birds into the United States?

Mr. LILIENTHAL. It is impossible to legally import captive-bred exotic birds into the United States from qualifying facilities because there are no regulations.

Mr. SAXTON. Thank you. Does the U.S. Fish and Wildlife Service—do you believe that the U.S. Fish and Wildlife Service believes

that bird breeders have a role to play in increasing both the number and size of the gene pool for exotic birds?

Mr. LILIENTHAL. I will take that one again as one of the two aviculturists on the panel. I think perhaps these questions are maybe for us to answer. We believe that the need for increased gene pools is a must. Dr. Beissinger mentions 50 to 75 birds. I have been told by our director of conservation, Dr. Benny Gallaway, who has a Ph.D. in wildlife and fisheries services, that the current norm is 1000 birds for a viable gene pool. We are finding now that in some of the species that we are not able to import anymore that are shorter-lived, such as the finches, are experiencing a drop-off in the diversity in their gene pool, and we are concerned about inbreeding.

We are also concerned because as we are unable to increase gene pools, that acts as an enticement to unscrupulous people for illegal activity—smuggling. Aviculturists abhor smuggling. Smuggled birds are dangerous to avicultural collections. They bring in disease. AFA is the only organization in the United States of which I am aware which has produced a bilingual, multi-colored anti-smuggling poster and we donated it to the Fish and Wildlife Service. I actually presented a copy of this poster to this committee when it held the WBCA hearings. We have a copy of it on display here today. We are very concerned about the dilution of gene pools and what is going to happen if we cannot at least bring in captive-bred birds, never mind wild-caught birds under sustainable trade. And the gene pool issue is a major issue for us.

Dr. CLUBB. There are many species in the United States for which we have developed avicultural techniques and have developed very large gene pools and very stable populations. There are other species for which we have not developed these techniques yet or perhaps they were imported in fair numbers many years ago when birds were imported for the pet trade didn't fall into the hands of responsible aviculturists in time to establish these birds.

As we become more sophisticated, we think we should get an opportunity to work with these species again. And we would prefer to bring in captive-bred birds if they are available and if the regulations will allow us to bring in captive-bred birds. If not, we feel that we can be responsible and bring in low numbers for captive breeding from the wild without damaging wild populations unless it is a bird like the Spix's macaw. Obviously we don't intend to try to import rare and highly endangered birds for aviculture unless it is absolutely necessary.

Mr. SAXTON. OK, well, thank you very much for your testimony. We appreciate it very much. This subcommittee does take its work very seriously and we will certainly try to work with the Service to try to provide a better situation within which you all work and literally live. Thank you very much.

[Whereupon, at 11:57 a.m., the subcommittee was adjourned; and the following was submitted for the record:]

THE WHITE HOUSE

May 31, 1994

Ms. Peg Bargon
Rural Route #2
Monticello, Illinois 61856

Dear Peg:

Thank you for your letter. I appreciate your thoughtfulness in sending me the dream catcher.

I love the beautiful legend of the dream catcher, and I'm pleased to have this symbol of native American wisdom, love, and creativity in the White House to commemorate my delightful visit to east central Illinois.

With best wishes, I am

Sincerely yours,

Hillary Rodham Clinton

Hillary Rodham Clinton

July 20, 1995

To Whom It May Concern:

As you can see, national press has gotten the story about the "gift" Elmer Purcell and I gave to the First Lady, the subsequent investigation and impending prosecution by the U. S. Fish and Wildlife, Division of Law Enforcement and the U. S. Justice Department. Mrs. Clinton's dreamcatcher (which was analyzed by the Smithsonian Institution) contained 11 feathers picked up from the ground by my son and I at the Columbia Riverbanks Zoo, Columbia, SC, 3 given to me by a hunter, and 2 I plucked from a road-kill owl.

In the state of Illinois, ALL birds with the exception of the common house sparrow, pigeon and North American starling are "protected" by either state or federal laws. Migratory birds (blue jay, owl, cardinal, crows, Canadian goose) are federally protected. What does "protected" mean?

The Migratory Bird Treaty Act of 1963 states in part: "...it shall be unlawful at any time, by any means or in any manner, to ...take (collect), possess, offer for sale, sell, transport or cause to be transported, carry or cause to be carried or received any migratory bird, any part, any nest or egg of any such bird, or any product, whether or whether not manufactured , which consists, or is composed in whole or part, of any such bird or any part, nest or egg thereof..."

The Bald and Gold Eagle Protection Act states that it is unlawful to:"...knowingly, or with wanton disregard for the consequences of his act, to take (collect), possess, sell, purchase, barter, offer to sell, purchase or barter, or transport at any time or in any manner any bald eagle or golden eagle, alive or dead, or any part, nest or egg thereof, without being specifically permitted to do so by regulation or statute."

Protected means you MAY NOT AT ANY TIME OR FOR ANY REASON PICK UP A FEATHER!

Ignorance of the law is not an excuse to escape prosecution. Possession is a "strict liability" crime meaning it is irrelevant whether or not you know what you are doing is wrong. It is seen by the federal agencies that because you possess the feathers, you are guilty.

Surely, you have an opinion about this national incident happening right here in Monticello. (You'd be amazed at some of the people I've heard from over this newspaper column!) I am trying to muster local public support for my plight by asking you to immediately contact all the people listed below - by phone, fax, letter. Tell them what you think about the situation. You may even know other people who should be enlightened about this true to life Central Illinois drama. Keep in mind, in the last three days, Congress has been discussing major cuts in Department of Interior which heads U.S. Fish and Wildlife. They have recently wrestled with the Endangered Species Act and the impact it has come to have on our citizens.

Please know I am to appear in federal court during the first week of August to enter a guilty plea. Time is crucial.

Welcome to my nightmare....

Sincerely,

Peg (Vermillion) Bargon
R. R. 2, Box 177
Monticello, IL 61856
[illegible]

Gift may prove ticklish for first lady

7/20/95
C-U News-Gazette

By PETER ROONEY
News-Gazette Staff Writer

CHICAGO — An agent of the U.S. Fish & Wildlife Service said that, technically, first lady Hillary Rodham Clinton could be charged with violating two federal bird protection laws.

Joseph E. Budzyn, the man who supervised the eagle feather possession investigation that landed a rural Monticello woman in hot water, said it's up to the U.S. Attorney's office in Urbana whether to charge Clinton.

Peg Bargon of rural Monticello faces possible charges that she violated federal laws by giving an Indian-inspired dream catcher made of feathers from various birds that she found to the first lady. Among the birds, she has said, were an eagle feather and a blue jay feather.

Budzyn, a Chicago-based senior resident agent of the U.S. Fish & Wildlife Service, said if Hillary Clinton accepted the dream catcher then she too would be in violation of both the Migratory Bird Treaty Act, enacted by Congress in 1918, and the Eagle Protection Act, passed in 1940.

"Theoretically, that's correct," he said. "The Migratory Bird Treaty act is a strict liability law. An individual does not have to have knowledge that they violated the law to have committed a violation.

CLINTON

Assistant U.S. Attorney Larry Beaumont said this week that until formal charges are filed, he can neither confirm nor deny that an eagle feathers case is pending.

J. Steven Beckett of Urbana, Bargon's attorney, said she claims she found the eagle feather at a zoo in Columbia, S.C., not in Peoria as was recently reported.

Budzyn said his agency is primarily interested in prosecuting cases where feathers are sold for commercial gain. He stressed that eagle feathers shed in zoos are carefully monitored and not available to passers-by.

"The zoos that do have eagles on display hold a permit to display that eagle," he said. "One of the conditions of the permit is that they send the dropped feathers to the National Eagle Repository. All the birds and parts there are used to fill Native American requests for eagle parts."

Budzyn said the Migratory Bird Treaty Act's original intention was to recognize birds as national resources and to protect them. It was first signed by the United States, Mexico and Great Britain on behalf of Canada. Japan signed the treaty in 1973 and the Soviet Union came aboard in 1976.

All migratory birds are covered by the act, Budzyn said.

"It covers basically all your birds except upland game birds — pheasant, grouse, partridge and wild turkey," he said. "The other three exceptions are pigeons, sparrows and starlings."

The Eagle Protection Act was intended to protect the nation's symbol, the bald eagle, but also covers the golden eagle, Budzyn said.

Mere possession of eagle feathers or migratory bird feathers can be punishable by up to six months in jail and a fine of as much as $56,000. Possession with intent to sell the feathers can bring up to a year in federal prison and a fine of up to $100,000, he said.

Budzyn said ignorance of the law is not an excuse, nor is claiming that the feathers were found.

Chicago Sun-Times, July 18, 1995

METRO

Birdbrain Feds Turn Dream Into Nightmare

It was a "very nice thank-you note" Peg Bargon got from Hillary Rodham Clinton for the "dream catcher" gift she made specially for the first lady.

And she "took it as a great honor," says Bargon's attorney, J. Steven Beckett.

But the next thing Bargon, of Downstate Monticello, got was a visit from a posse of U.S. Fish & Wildlife Service agents armed with a search warrant.

Now Bargon finds herself being leaned on to cop a plea on federal charges related to her gift--or go to jail.

And I find myself wondering just how silly federal agencies can get, and if our government might not be running a bigger deficit on common sense than it is on our dollars.

Bargon, a middle-age wife and mother who works at the nearby University of Illinois small animal veterinary clinic, is into arts and crafts, specifically dream catchers, an American Indian artifact made of beads, stones and feathers attached to a hoop.

So, when Clinton came to the U. of I for a 1994 commencement address, a local Democratic leader, Elmer Purcell, suggested that one of Bargon's dream catchers be presented as a gift to the president's wife.

A local newspaper ran a story about this and, as Bargon told me on the phone Monday, her "life has been turned upside down ever since."

It seems the newspaper story caught the eye of the Fish & Wildlife people, who noted that Clinton's dream catcher included a bald eagle feather, possession of which is illegal.

So they started a sting operation against Bargon, with two undercover agents posing as potential customers trying to buy one of her dream catchers from a local arts and crafts mall, where they sell for about $14.

Next, no fewer than six agents turned up on a raid at the mall and the homes of Bargon and Purcell, who has since died.

Bargon gets feathers for her artwork from hunters, friends, even from road kill. She uses turkey feathers, pheasant feathers, almost any feather that comes her way. She picked up the eagle feather from the ground at a zoo.

Obviously she does not go around shooting or capturing eagles. Still, the feather was illegal. So was the blue jay feather she had used on another dream catcher. So were any feathers she used from any migratory bird.

"Who doesn't walk though the woods and pick up a feather and bring it home?" Bargon asks. She's read her son's Boy Scout manual and "never found a word about picking up feathers."

But, she says, she "didn't want any trouble." So from the very beginning she "cooperated completely" with the federal feather chasers.

The case is now in the hands of the U.S. attorney in Champaign, and the maximum penalty for possession of the eagle feather--and possession with intent to sell it--could run up to a year in prison and a $100,000 fine.

At first, Bargon says, officials said they would let her off with a fine "consistent with what I could afford," if she would plead guilty to one misdemeanor charge.

But then last spring they got tough. Now, she says, they want her to plead guilty to three counts, one involving a blue jay feather, which could mean a fine between $2,000 and $20,000 and six months "home confinement."

Attorney Beckett says he has "every reason to believe" formal charges will be filed next month and that Bargon "is scared to death."

The very idea of pleading guilty to federal criminal charges "concerns me greatly," Bargon told me. "I've never been in trouble. This [her interest in dream catchers] was something innocent."

Logically, Beckett notes, if possession alone is the crime, it would make as much sense to prosecute Clinton as it does to press the case against Bargon.

But the case has been dragging on for more than a year now and, says Beckett, "It's kind of emblematic, isn't it, of what's going on" generally with regard to encroaching federal intrusiveness.

Yes, it is. It is also almost dumbfoundingly silly.

News-Gazette
1-23-95

OUR OPINIONS

The eagle has landed

When arguments over petty matters start to get out of hand, it's usually the peacemaker who issues a plea: All right. All right. Let's not make a federal case out of it.

Which brings us to the case of Peg Bargon and the eagle feathers. Federal authorities are righteously mulling the idea of dragging the Monticello area woman into court because she violated federal law by possessing some eagle feathers. In the spirit of common sense, it's time to say to U.S. Attorney Frances Hulin: Please, let's not make a federal case out of it.

Those unfamiliar with the case of Bargon and her eagle feathers ought to look up a July 13 story, "Dream could become a nightmare," by The News-Gazette's Peter Rooney. Skeptics should be forewarned: The story is no joke.

What it is is an outrageous example of government excess. But, so far at least, federal authorities haven't let that obvious fact influence their behavior. Meanwhile, Bargon has hired an attorney to represent her.

This preposterous problem started innocently enough with a May 1994 visit by first lady Hillary Clinton to speak at a University of Illinois commencement. Bargon was contacted by then Piatt County Democratic Party Chairman Elmer Purcell, who asked her to make a "dreamcatcher" as a gift for Mrs. Clinton.

According to Indian lore, the "dreamcatcher" consists of a hoop with feathers, stones and beads attached. The feathers are intended to catch the bad dreams, while the stones and beads send the good dreams to the head of the owner.

In making the dreamcatcher, Bargon used a variety of bird feathers, including an eagle feather she said she had picked up from the bottom of a cage at a zoo.

With Mr. Purcell acting as the conduit, Mrs. Clinton subsequently received her "dreamcatcher" and sent Bargon a thank you note, all of which was duly noted in a June 13, 1994, story in The News-Gazette.

Among the readers of the story was an official with the U.S. Fish and Wildlife Service. On Aug. 4, 1994, federal agents raided Bargon's home. Now Bargon remains under threat of federal indictment. Mr. Purcell, who recently died, so far has managed to escape the federal dragnet.

It is, of course, undeniably true that federal law bans possession of eagle feathers without the approval of the U.S. government. But this case could have been resolved with an exchange of letters. The idea of search warrants and threats of indictment are maddeningly ridiculous.

What public purpose could be served by dragging Bargon into court? Does the government seriously contend that this woman, who works at the UI's Small Animal Clinic, is a threat to migratory birds? And if Bargon is to be indicted for mere possession of the eagle feathers, how about indicting the first lady, too?

Of course, indicting Hillary Clinton would be ridiculous, but no less ridiculous than this hounding of Bargon.

Government officials, of course, should realize that this case is at least as great a threat to their credibility as it is to Bargon's liberty. The public can understand pointless overkill.

Here we have a situation in which government agents are using a sledgehammer of a law to pursue gnats for no discernible public purpose. Earth to feds, come in, please!

If there's another side to the story, let's hear it. If not, federal authorities should drop this matter immediately. Bargon is now aware of the federal law on eagle feathers and likely won't be using them again.

— Jim Dey

TESTIMONY OF MARSHALL P. JONES, ASSISTANT DIRECTOR FOR INTERNATIONAL AFFAIRS, UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS, HOUSE RESOURCES COMMITTEE, REGARDING THE WILD BIRD CONSERVATION ACT OF 1992 AND ITS IMPLEMENTATION

SEPTEMBER 28, 1995

Mr. Chairman, I am extremely pleased to be here today to address the U.S. Fish and Wildlife Service's implementation of the Wild Bird Conservation Act of 1992 (WBCA) and its effectiveness. The Service supports the reauthorization of this Act without any amendments. This Act is important to the continued survival of many of the world's most beautiful and impressive bird species.

The Wild Bird Conservation Act was signed into law on October 23, 1992. The WBCA was enacted to promote the conservation of exotic birds listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora by ensuring that all imports into the United States are biologically sustainable and not detrimental to the survival of the species in the wild and to assist (where possible) wild bird conservation and management programs in the countries of their origin.

It is important to note what the WBCA does not do: it does not regulate the interstate or intrastate commerce, or breeding of exotic birds within the U.S.; nor does it regulate the export of exotic birds from the U.S. The WBCA specifically exempts 10 families of gamebirds and ratites (such as ostrich), as well as

birds native to the 50 States and the District of Columbia from its provisions.

At the time that the WBCA was enacted, the United States was the world's largest importer of wild exotic birds, importing more than 1.4 million wild birds from 1988 to 1990. Approximately half of these were parrots and other species protected by CITES. Experts estimated that for every wild-caught bird offered for sale in a pet store up to five died along the way, starting from the point of capture. During one five-year period from 1985 to 1990, over 330,000 birds arrived at the U.S. port of entry already dead or they died within the first 30 days of quarantine, according to the U.S. Department of Agriculture.

The WBCA was passed to enhance CITES implementation by ensuring that any imports into the United States of CITES-listed species would be allowed only if the necessary biological findings could be made. CITES is the international treaty with 128 parties which regulates international trade in certain plant and animal species. CITES specifically acknowledges the obligation of each Party to enforce the treaty and to adopt its own national laws regulating trade in CITES-listed wildlife. However, many exporting countries lack the resources to obtain sufficient biological data regarding their wild bird populations to make the "non-detriment finding" required by CITES to ensure that trade is

biologically sustainable and not a threat to survival of the wild populations.

The WBCA provided for implementation to be phased in over time. First, it established an immediate moratorium on the importation of ten species of wild birds of particular concern ("significant trade species") that were then listed in Appendix II of CITES. Second, it directed that for one year imports would be allowed under a quota, which set a maximum number of any CITES-listed bird species to be imported into the U.S for that year. During 1993, 84,655 CITES-listed birds were imported into the U.S. in 1,460 shipments. Third, for 1994 and in future years, imports of all CITES-listed birds were prohibited except for species included in an approved list or in cases where an import permit can be issued by the Service through implementing regulations.

The Service has moved expeditiously to implement the WBCA. While the WBCA established a broad framework to allow the continued import of CITES-listed birds under certain conditions after the first year of enactment, all imports were prohibited until implementing regulations were promulgated by the Service. Given that the WBCA affected the import of many species previously unregulated, and a broad spectrum of constituent groups were interested in or affected by its implementation, the Service made public outreach and education a priority in developing its regulations. In an effort to reach interested groups, the

Service has produced fact sheets and posters, given lectures, and published articles in the popular press on the WBCA. The Service worked cooperatively with many of the organizations presenting testimony here today to disseminate information on the WBCA and coordinated with the wildlife departments of foreign governments, and the avicultural, avian veterinary, zoological, conservation, and animal welfare communities.

The Service's first priority for implementation of the WBCA was the issuance of regulations on permits under the WBCA which would allow importations for scientific research, zoological breeding/display, personal pets, and cooperative breeding programs designed to promote the conservation of the species and maintain the species in the wild. These were effective on November 16, 1993, only three weeks after the date that the WBCA prohibited all imports of CITES-listed exotic birds.

As of August 8, 1995, the Service has issued over 550 permits to import CITES-listed exotic birds for scientific research, zoological breeding/display and as personal pets. The applications to import prohibited species have involved a wide variety of species listed in Appendices I, II, and III of CITES. Ninety two percent of these applications have involved the import of personal pets. Import applications for personal pets are, on average, processed within two weeks of the Office of Management Authority receiving a completed application.

Permits also have been issued to 14 zoological institutions to import specimens for breeding and display for species ranging from Birds of Paradise from Papua-New Guinea to hummingbirds from Suriname. Permits are also available for imports associated with cooperative breeding programs. Programs have been approved for nine species ranging from harpy eagles with oversight by the Peregrine Fund to crimson-bellied conures with oversight by the American Federation of Aviculture. In reviewing cooperative breeding program applications, the Service seeks the expertise and opinion of the CITES Management Authorities and biologists in the range states regarding the status of the bird species to be imported and the conservation efforts for the species in the wild. For example, comments from the Government of Brazil have provided critical information needed to evaluate proposed cooperative breeding programs for Brazilian endemic parrots.

The second priority for implementation was to establish an approved list of captive-bred species that came from captive breeding facilities in foreign countries. The Service considered these regulations a priority in order to facilitate shipments to U.S. by importers of these captive-bred species. Species on this approved list can be imported into the U.S. without a WBCA permit. The final list of approved species includes 45 captive-bred exotic bird species and the color mutations for 3 captive-bred species. As a result of comments received during the public

review process, the Service expanded its proposed list and added a number of additional finch and parrot species to the final list. For example, the color mutations of several parrotlet species, masked lovebirds, western rosellas and Jendaya conures were added to the list in response to comments received.

The 45 captive-bred species on this approved list can be imported into the U.S. in commercial quantities, thus encouraging their use by the pet industry to supply birds for the retail trade rather than wild-caught birds. For example, the Service has observed an increase in the import of captive-bred rosella parakeet species from European breeders and such imports have not been detrimental to the survival of native rosella species in Australia.

The third priority for implementation was to establish the criteria for approving sustainable use management plans in range countries and, thereby, allowing the importation of wild-caught birds from those countries covered by a plan approved by the Service. Implementation of this proposed regulation would establish an approved list of wild-caught birds that can be imported without WBCA permits. A final decision on the proposed criteria is expected.

While we are working to complete the regulatory process, the Service has initiated contact with several exporting countries

that have expressed interest. We have offered technical expertise and support to those countries requesting assistance in monitoring psittacine populations and developing sustainable use management plans. In one instance, Service personnel visited Argentina (a major exporter of wild birds prior to the WBCA) to observe and comment on ongoing studies into the ecology and conservation of the Blue-fronted Amazon parrot and a potential plan for its sustainable harvest. The government of Indonesia has initiated studies into the sustainable management of its bird populations in anticipation of final regulations.

The fourth priority for implementation was to establish criteria so that the Service can evaluate and approve foreign breeding facilities, as an alternative source for birds not available from sustainably-managed wild populations. These regulations have been proposed and over 4000 public comments were received, including substantive input from many avicultural, raptor breeder, conservation, animal welfare, and scientific organizations and the pet industry. The Service is currently reviewing these comments to ensure that any final regulations are responsive to those comments. Once implemented such regulations would allow for the import of birds from an approved breeding facility without a WBCA permit. We expect a final decision to be made on these proposed regulations by the end of the year.

The Service recognizes that new laws, and the regulations derived from them, are frequently a source of confusion and misunderstanding for the affected public. This has certainly been true of the WBCA. A great deal of confusion resulted from the WBCA, requiring the Service to look at voluntary marking programs and report to the Congress. Many aviculturists interpreted this to mean that regulations would be implemented to require marking of all domestic birds. The Report to Congress on voluntary marking will be completed by the end of the year. **However, The Service maintains that there is no need now, nor will there be in the future, to impose any labeling program on any breeder or business.** There is no interest on the part of the industry in a cooperative, voluntary program of labeling exotic birds beyond those means that already exist, and there is no perceived need to promulgate regulations to implement such programs.

Unfortunately, there have also been a number of misconceptions about the WBCA which have confused the public about its impact on domestic breeders of exotic birds. Some thought that the WBCA made it illegal to even possess a wild-caught bird as a pet. Others feared that one could only legally breed birds on the approved captive-bred list. There was significant concern that the WBCA would result in searching aviaries and seizing birds without cause. The Service has worked diligently to stress to the public that the WBCA only regulates the **import** of exotic

birds, both captive-bred and wild-caught. The WBCA has no impact on birds bred within the U.S. and their export.

Three years after the WBCA's enactment, it is working well to achieve its intended purpose conserving birds in the wild. Imports of CITES-listed bird species to the U.S. have declined significantly. During 1994, 12,565 CITES-listed birds and 89,431 non-CITES-listed birds were imported into the U.S. while thus far in 1995, 3,794 CITES-listed birds and 30,850 non-CITES-listed birds have been imported into the U.S. The exemption process for imports of birds for zoological breeding/display, for personal pets, scientific research, and cooperative breeding programs is operational and working. When regulations for the approval of foreign breeding facilities and sustainable use management programs are adopted, the number of birds, both wild-caught and captive-bred, imported to the U.S. will increase. But that increase will be because importations have been found not to be detrimental to the species survival and providing for the species' conservation in the wild.

Since enactment of the WBCA, domestic breeding efforts for exotic bird species in the U.S. have increased and a wide variety of domestically-bred species is available. We acknowledge the substantial contribution U.S. aviculturists can make towards supplying the demand for pet birds to the American consumer. We encourage them to participate in cooperative breeding programs

for species that may not be well-represented in the U.S. and where importation assists genetic diversity for these species.

Finally, the Service believes that the provisions of the WBCA which regulate import of captive-bred birds fill an important gap. While CITES approves and certifies captive-breeding facilities for CITES-listed Appendix I bird species, there is no equivalent approval process for CITES-listed Appendix II or III species. Problems remain in adequate regulatory and enforcement mechanisms in many countries of origin for species which are in trade. Therefore, no assurances exist that wild-caught birds are not being misrepresented and illegally imported as captive-bred birds. The WBCA allows captive-bred birds to be imported in a variety of ways: from an approved list of captive-bred species, or from an approved foreign breeding facility, or as a permitted exemption. Therefore, adequate means exist to provide for captive breeding under the WBCA.

In closing, the Service strongly supports the re-authorization of the WBCA. The U.S. has shown world leadership in conserving exotic bird populations and the re-authorization of the WBCA will reconfirm our commitment to continue this leadership. We look forward to working with this Committee during the re-authorization process. Thank you, Mr. Chairman.

State of New Jersey

Christine Todd Whitman
Governor

Department of Environmental Protection

Robert C. Shinn, Jr.
Commissioner

Testimony before the House Subcommittee on Fisheries, Wildlife and Oceans on the Reauthorization of The Wild Bird Conservation Act

by
Lawrence Herrighty, Supervising Wildlife Biologist
New Jersey Department of Environmental Protection
Division of Fish, Game and Wildlife

September 28, 1995

I would like to thank you for the opportunity to testify today at this reauthorization hearing for the Wild Bird Conservation Act of 1992 (WBCA). I am Larry Herrighty, supervising wildlife biologist for New Jersey Department of Environmental Protection's Division of Fish, Game and Wildlife. I am the supervisor of the division's permit section, and in that capacity, I oversee the administration of New Jersey's own Wild Bird Act and regulations.

I am here to support the reauthorization because I believe the act is necessary to conserve wild populations of exotic bird species which have a history of being exploited for commercial purposes. The people of New Jersey feel likewise. In 1991, the New Jersey legislature overwhelmingly passed a wild bird act which prohibited the possession of wild-caught birds not already in legal possession. Exceptions are allowed for zoological, scientific and conservation breeding programs. Only three species of exotic birds common to the pet trade were exempted in the act. Two more were exempted by regulation. As mandated, the regulations also establish methodologies to distinguish between wild-caught and captive bred birds. The Act also allows the department to promulgate a list of exempted bird species.

New Jersey's act is, therefore, similar, but in some respects more restrictive than the federal act being discussed today. I believe New Jersey's experience is pertinent to todays discussion since we have had to deal with the same concerns, issues, questions and misconceptions which have resulted in this oversight hearing today.

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I have had the opportunity to read some of the newsletters that the America Federation of Aviculturists has sent to its members concerning this act, as well as the public comment in the Federal Register. In this material, I find no objection to the primary purpose of the act, which is to curtail the commercial trade in wild-caught birds for those species in jeopardy. Therefore, I think we can all agree that this conservation objective is biologically and politically correct.

What I do read, however, are three major areas of concern regarding regulations needed to enforce the act. The first issue involves the documentation to be provided by overseas breeders in order to prevent laundering of wild-caught birds and to create a list of qualifying overseas breeding facilities (section 107).

Second is the issue of the possibility of marking and record keeping allowed in section 115 of the act; and third, is the concern that the act will curtail captive breeding of exotic species in the United States.

I will address each of these issues, because I have heard them all before in NJ.

The first issue is the need to scrutinize documents for imported captive bred birds in order to regulate the trade in wild-caught birds.

Some testimony heard today may declare that this is beyond the scope and intent of the WBCA. I argue that it is an essential and necessary wildlife management tool, without which, the objective of the WBCA can not be accomplished.

Requiring a paper or document trail to distinguish between legal and illegally obtained wildlife is a long standing practice which is basic to wildlife management throughout North America. For example, hunters are required to tag their harvested big game; and commercial fishermen are required to log their landings. Throughout the processing of privately or commercially harvested wildlife, documents proving legal possession must accompany the product.

The New Jersey Wild Bird Act requires purchasers to produce a receipt that indicates that the bird was domestically bred. Birds held prior to the act may be legitimized by dated photographs, veterinarian records or sworn statements. Proper documents protect the law abiding public and make it easier for law enforcement personnel to investigate questionable activities.

In New Jersey, hobbyists owning exotic birds must obtain a possession permit. Of the 4,000 bird applications received so far this year, only 10 applicants have yet to provide us with the required documentation. Initially there was some confusion in New Jersey concerning what was legitimate documentation. Most questions involved pre-act birds. However, now our pet stores and private breeders have been educated and our constituents are

having very little problem obtaining proper documents. During all my conversations with dealers and their customers, The concept of requiring documentation to prove legitimacy was easily understood and accepted.

Checking questionable documentation in New Jersey is easier because we have access to the records of in-state dealers. We can also rely on the assistance of fish and game agencies in other states should we wish to check the authenticity of a questionable source.

Checking the documentation from other countries is obviously going to be more difficult. The WBCA allows the importation of captive bred birds. The regulations necessary to scrutinize this documentation has yet to be promulgated but they are already under fire.

I believe it is legitimate to require that a foreign captive breeder document that his facility can actually breed the species and numbers of birds they intend to export. I also believe we should wait for the regulations concerning qualifying facilities as defined in section 106 to be published before we complain that they will be overly burdensome.

The second issue involves the possibility that section 115 of the WBCA will be implemented. Section 115 allows the Secretary to promulgate regulations requiring marking (banding or tagging) and record keeping. The USFWS has already stated in public meetings that they do not intend to exercise this option since foreign banding is not a sure way to distinguish wild-caught from captive reared birds. I agree. Closed bands can be slipped on a young bird taken from a tree by some black marketer in order to launder it as captive bred.

I should point out, however, that New Jersey requires that all birds bred in-state be fitted with a closed band. Unbanded pre-act birds must be banded with butt-end bands if resold. We specify bands from a particular manufacturer but also recognize bands being utilized already by members of the American Federation of Aviculture, the National Finch and Soft Bill Society and the Society of Parrot Breeders and Exhibitors. We are also willing to allow bands from any other organization which is willing to help us trace a bird if it becomes necessary. We also allow micro-chip implants as an option for those wishing not to band their birds.

Although New Jersey law is stricter in this regard, there are two points I would like to make. The first is that banding/tagging always helps the legitimate constituent and is an aid, although not fool proof, in apprehending the illegal purveyor of birds. Secondly, several national organizations have already recognized the value of banding as a method of individually tracking birds for breeding purposes. For these organizations, the banding is not overly burdensome but rather an aid to good animal husbandry.

As in New Jersey, allowances are made in the WBCA for importation of wild-caught birds for conservation purposes such as establishing captive breeding techniques for species not yet bred in captivity. I assure you that when wild birds are imported for these purposes, each bird will be banded or micro-chipped, since marking is the best way to track individual birds and their success in a breeding program.

Thirdly, and closely tied in to the above two concerns is that captive breeding of birds in the United States is and will continue to be curtailed by the WBCA and resulting regulations.

In New Jersey, we have found nothing further from the truth. One can only pick up a newspaper or scan the yellow pages to find breeders advertising that their birds are domestically bred and hand fed. Dealers are reacting to an educated consumer market that bought into the wild bird act from the very beginning. They are advertising what the consumers want, a friendlier and healthier pet. Wild-caught birds have always been cheaper but have always been wrought with health and behavioral problems.

I have talked to hundreds of bird hobbyists and have yet to hear a consumer complain about the extra price he or she has to pay for a domestically bred bird. They have seen the television programs or read magazine articles on the exotic bird trade and they understand the conservation and the animal cruelty issues. They are quite satisfied to pay more, in order to get a bird which will be healthy and tame. Our wild bird act has helped the in-state breeder who must charge more for a bird that has been hand-fed and cared for with great attention. We have not hurt New Jersey aviculturists by our law, we have allowed them to flourish.

I suggest that the same will be true for bird breeders across the United States.

In conclusion, I believe the WBCA and its regulations have been fair and on target in meeting their stated objective. Dealing with an international issue such as conservation of exotic birds can not be effectively dealt with at a state level. As with other import / export issues involving wildlife, the regulation of exotic birds is best handled at the federal level by the U.S.F.W.S. which has a long history of cooperation with state wildlife agencies.

New Jersey looks forward to the reauthorization of the WBCA and the full adoption of the required regulations. Perhaps then New Jersey regulations can be amended so that they mirror the federal standard, thereby conserving the exotic bird resource while providing our citizens with a consistent and unobtrusive regulatory framework from which to conduct their business or hobby. Thank you.

Summary of Testimony before the House Subcommittee on Fisheries, Wildlife and Oceans on the Reauthorization of The Wild Bird Conservation Act

by
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September 28, 1995

The New Jersey Department of Environmental Protection supports the reauthorization of the Wild Bird Conservation Act which regulates the importation of wild-caught exotic birds whose populations are being overly exploited for commercial trade.

New Jersey passed a Wild Bird Act in 1991 which prohibits the possession of wild-caught birds except for zoological, scientific, and conservation breeding programs. Subsequent regulations require a marking system to distinguish wild caught vs. captive birds, allows importation of wild-caught birds to increase the genetic diversity of breeding stock when there is a demonstrated need; and the creation of an exempt species list.

We, therefore, have familiarity with the concerns raised regarding the federal WBCA. The first concern is that the regulations go beyond the objective of the act by regulating the importation and by scrutinizing documentation for captive bred birds (Section 106). We disagree. Requiring documentation to distinguish between illegal and legal origin wildlife is a standard and proven wildlife management tool. Comments that these regulations will be overly burdensome and will curtail captive breeding in the United States are premature since these regulations have yet to be promulgated.

The second area of concern is section 115 of the Act which allows the Secretary to promulgate regulations to require marking and records to aid in enforcement. We agree with the U.S. Fish and Wildlife Service that banding/marking is not the preferred method to distinguish imported wild caught birds from legitimate captive breed birds since closed bands can be placed on newly hatched wild caught birds. We further note, however, that banding has not been a problem in New Jersey and that several national avicultural organizations track individual birds through banding.

Finally, there is a concern that regulations pursuant to the act which restrict importations of captive bred birds will be detrimental to domestic breeding programs. In New Jersey, we have found the opposite to be true. Our aviculturists recognize the conservation and cruelty issues involved with the wild bird trade and support the additional marking and document requirements. Additionally, without competition from cheaper wild caught birds, domestic breeding has become more profitable.

We feel that the WBCA should be reauthorized because the exotic bird trade is best regulated at the federal level.

STATEMENT OF

JAMES P. LEAPE, SENIOR VICE PRESIDENT

WORLD WILDLIFE FUND

On the Wild Bird Conservation Act

Before the

Subcommittee on Fisheries, Wildlife and Oceans

of the

Committee on Resources

September 28, 1995

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Introduction

Mr. Chairman and members of the Subcommittee, I am James P. Leape, Senior Vice President of the World Wildlife Fund (WWF). I appreciate the opportunity to appear before you today to comment on the Wild Bird Conservation Act (WBCA) as it has been implemented to date, and to present our views on why Congress should reauthorize a strong Act.

The Wild Bird Conservation Act was an important piece of wildlife conservation legislation when it was enacted three years ago and it remains a sound law today. Its goals were two-fold -- first, to curtail the trade that had become harmful to wild populations of parrots and other exotic birds, and second, to allow a sustainable level of trade in avian species consistent with their long-term conservation in the wild.

The first goal has been met. The Act has helped reduce our harmfully high levels of imports, and we are no longer contributing to the demise of many spectacular species. That is a major success by any measure. The jury is still out however on the Act's second goal -- to allow for the sustainable trade in these species while ensuring that U.S. imports are not detrimental to wild populations. Regulations implementing two key mechanisms that would allow for that trade have not yet been issued, so it is not yet possible to assess how well the Act will achieve the second goal.

It is important to highlight, however, that the Act has not shut off all bird imports completely: zoos have been able to import birds for public display; scientists have been able to import birds for research; and citizens have been able to bring home the pet birds they acquired while living abroad. And based on anecdotal information, it appears that pet shops have an ample supply of captive bred birds to sell, and in spite of the reduced imports, prices have not risen notably.

In the remainder of my testimony I will explain why WWF believes it is important that the Act be fully implemented as soon as possible and I will make specific recommendations on how that can and should be done administratively.

Background

More than three years ago, I testified before Congress about the need for legislation to help halt the alarming decline of wild bird populations in many parts of the world, due to excessive international trade demands. While evidence indicated that habitat loss was the single most significant threat to most wild birds, international trade from the tropics and subtropics for the pet market was clearly contributing to the decline of some species.

In 1988, WWF convened the Cooperative Working Group on Bird Trade[1], which I chaired, to conduct a comprehensive analysis of imports of live exotic birds into the United States. The recommendations of the Working Group, which met over a period of two years, laid the groundwork for the Wild Bird Conservation Act. These recommendations resulted from frank discussion, hard negotiation, and compromise that a diverse range of interested organizations accepted as the most practical and feasible way to reduce mortality and to control trade in wild-caught birds. Representatives from the conservation community, animal welfare groups, American zoos, avicultural interests, and the pet industry recognized that in the long-term we share a common interest -- maintenance of healthy populations of birds in the wild around the world.

This willingness -- on the part of the avifauna industry and wildlife conservationists -- to work together on a common interest is a tremendously constructive approach. We need to ensure that the end result of our collaboration -- the Wild Bird Conservation Act -- is being implemented in a manner that addresses our individual concerns as well as our shared interests if it is to serve as a model for cooperation on wildlife conservation issues in the future. I commend you for holding this hearing to air concerns about the Act and to try to find appropriate ways to address them.

Decreasing wild bird populations, particularly in tropical regions of the world, have been of increasing concern to international conservationists for over a decade: the Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES) recognized in 1981 that the heavy trade in parrots had the potential to threaten wild populations, and listed all parrots, including macaws, parakeets and lories (with the exception of three species), on Appendix II, which requires range states to ensure that exports of the species are not harmful to wild populations. A subsequent CITES review drew attention to the large numbers of parrots in international trade and resulted in recommendations that additional trade controls be implemented in a number of countries. At each Conference of the Parties to CITES in the last 15 years, a few more parrot species have been moved from Appendix II to Appendix I as trade has taken its toll; the scarlet macaw in 1985, the hyacinth macaw in 1987 and the Goffins cockatoo in 1992, to mention only a few examples. The European Community, the world's largest regional market, has implemented regulations that go beyond CITES requirements and has prohibited imports or established restrictive quotas on several species of parrots. Finally, several airlines no longer transport wild birds.

As a result of this attention -- both in the U.S. and internationally -- range states have begun to take steps to control the exports of their wild birds. Of the five major bird exporting

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[1] Members of the Cooperative Working Group on Bird Trade: American Association of Zoological Parks and Aquariums, American Federation of Aviculture, American Pheasant and Waterfowl Society, Animal Protection Institute of America, Animal Welfare Institute, Association of Avian Veterinarians, Humane Society of the United States, International Council for Bird Preservation, National Audubon Society, Pet Industry Joint Advisory Council, Society for Animal Protective Legislation, TRAFFIC USA, and World Wildlife Fund

countries, four -- Argentina, Guyana, Indonesia and Tanzania -- have significantly reduced bird exports by increasingly restrictive quotas. For example, Indonesia reduced its quota for the violet necked lory from over 4,000 birds in 1990 to under 1,000 in 1995, and Guyana reduced exports of the orange winged amazon from 15,000 in 1989 to 9,000 this year.

Some countries have also taken steps to strengthen their control of the bird trade. Tanzania has developed a management plan for trade in live birds requiring that quotas be established at the species level; that the total number of each species available for export be divided among licensed exporters; that quotas take into account post-capture mortality, and that the number of companies dealing with live birds be limited to around 30. Similarly, Indonesia has sought to improve its monitoring capability to more effectively track trade in wild birds. The country's wildlife department points to a number of steps it has a taken in the past few years, including more rigorous procedures for establishing harvest quotas, an annual review comparing export quotas with capture quotas, the establishment of a shipping permit requirement, and the establishment of additional requirements for exporter registration. Although both countries continue to face significant difficulties in effectively controlling the bird trade, positive steps have clearly been taken.

WWF has supported efforts to generate information necessary for determining the status of populations and sustainable levels of trade. Specifically, we have funded parrot population assessments in Honduras, Nicaragua, Mexico and Argentina. Additional surveys have been funded through other sources in Indonesia and Argentina. Sufficient biological information is not available, however, for most species, and effective trade controls are not yet in place to warrant reopening the trade. In the majority of range states, field studies have not been undertaken to assess the status of national bird populations. Additionally, almost nothing is known in most countries about the number of birds harvested for domestic use, which may significantly impact wild bird populations. As a result, most bird producing countries still do not have adequate information on their wild bird populations to determine if a sustainable harvest for export is possible. That being the case, it is clear that the Wild Bird Conservation Act is still very much needed.

Is the WBCA working?

Because the WBCA has not yet been fully implemented, it is difficult at this point to judge what its ultimate impact and success will be. However, some initial assessments can be made. Total bird imports -- including wild-caught and captive-bred birds -- fell from a high of a reported 848,000 in 1984 to 478,000 in 1992 to 102,000 in 1994. The precipitous decline in U.S. imports of wild-caught birds clearly demonstrates that we are not contributing to the depletion of wild populations to the extent we had in the past. The WBCA anticipated, however, that by the time the ban on wild-caught imports of CITES-listed birds took effect, mechanisms would be in place to allow the importation of birds at levels and from sources that do not contribute to the decline of wild populations. Those regulations have not yet been published.

Key to achieving the Act's goal of wild bird conservation is to ensure that all trade in wild birds involving the U.S. is biologically sustainable. The Act seeks to achieve that goal by allowing the importation of CITES-listed birds only if the country from which they originate has

implemented an adequate management plan for their conservation, or if they are bred in captivity. An exemption to this rule is provided for four categories of non-commercial imports: zoological display, scientific research, cooperative breeding programs, and personal pets. Birds that are not listed under CITES can be imported unless the Fish and Wildlife Service (FWS) finds that they are threatened by trade.

Exemptions under the WBCA

As noted above, the WBCA provides four exemptions for bird imports: for scientific research, zoological breeding or display, and cooperative breeding programs; and pet owners may bring their pet birds into the country after living abroad. WWF believes the regulations and permit application requirements for importing birds pursuant to these exemptions are reasonable and not overly burdensome. Experienced and qualified breeders should not have difficulty providing the information that is required. It was anticipated that this exemption would be used for the importation of wild caught birds, in which case the information is warranted and appropriate. However, this exemption is also being used for the time being for the importation of birds bred in captivity, since the regulations for the approval of foreign captive breeding facilities have not yet been issued. We understand the frustration on the part of those who have found that this was the only route available for the importation of a bird from a captive breeding facility. The solution is not to change the requirements for imports under the exemption, but rather to expedite the regulations for the approval of foreign captive breeding facilities.

Regulations for Management Plans and Breeding Facilities

The WBCA broadly defines what constitutes an adequate management plan and qualifying foreign breeding facility, and delegates authority to the Fish and Wildlife Service to issue regulations containing specific criteria, and to process applications submitted pursuant to those criteria. Unfortunately, Congress has not provided sufficient funds for the FWS to implement the WBCA, and the issuance of final regulations has been delayed for nearly two years. As a result, many birds bred in captivity in foreign countries cannot be imported, and there is not yet a procedure for importing birds from countries with sound management programs.

The fact that final regulations are not yet in place is especially troubling with respect to the import of birds from qualified captive breeding facilities in foreign countries. Because these regulations have not been issued, the WBCA has unintentionally closed a viable source of captive bred birds. That was clearly not intended: the Merchant Marine and Fisheries Committee Report on the WBCA acknowledged that "successful breeding of species of birds popular in the pet trade may help reduce the pressures on wild populations by increasing the numbers of birds that are available from captive-bred sources in both the United States and elsewhere." We urge the Fish and Wildlife Service to expedite the issuance of those regulations and, if it appears that additional delay is unavoidable, to consider providing an interim means of importing birds listed on Appendix II and III to CITES when they are verifiably bred in captivity.

The proposed rules on foreign captive breeding facilities have generated heated discussion. While it is important to use care and scrutiny in overseeing foreign breeding facilities to ensure that they are not used to launder wild-caught birds, WWF believes that the regulations -

- as originally proposed -- would have imposed some requirements that seemed to be unnecessary to achieve the goals of the Act. The goal of these regulations should be to ensure that captive breeding facilities are capable of breeding birds of the variety and in the quantity that they seek to export and that the facilities are not used as a means of laundering wild-caught birds. The FWS has received extensive comments of the proposed regulations and we hope that the final rules will be responsive to those comments and not raise unnecessary barriers to legitimate captive breeding.

Regulations have also been proposed for the approval of management plans to provide for the sustainable harvest of wild birds in range states. WWF believes that the sustainable use of wildlife can in some instances play a constructive role in conservation, by providing incentives to protect both wildlife and the habitat on which the wildlife depends. Sound management plans, including law enforcement schemes, are crucial to ensure that trade in exotic birds does not harm wild populations. Indeed, WWF has devoted significant resources to efforts to help range states develop good, scientifically based wildlife management plans. We hope the FWS will issue final regulations that assure that any wild-caught birds imported to the U.S. in the future are harvested pursuant to sound management plans with clear conservation benefits, but that the regulations not impose requirements unnecessary to achieving that goal.

Marking of Birds

The WBCA authorizes the FWS to promulgate regulations requiring marking or record-keeping of birds. Those provisions were included to address the serious issue of smuggling. It is excessively difficult to distinguish between legally and illegally obtained birds unless the legal birds are marked in some way. The marking issue consumed many hours of discussion during meetings of the Cooperative Working Group on the Bird Trade. It was a contentious issue for the Working Group five years ago, and remains so today.

It is admittedly difficult to devise a foolproof marking system. It does not appear that the FWS will use this authority in the foreseeable future, as establishing a federal marking system is, for technical and logistical reasons, not realistic in the short term. WWF believes that because a feasible marking system is not yet developed, the FWS should not promulgate regulations on marking at this time. Instead, FWS should concentrate its attention and limited resources on enforcing the Act's provisions regarding the import of wild birds in a way that does not impede legitimate captive breeding programs.

Appendix III

Under CITES, a country may act unilaterally to add a species to Appendix III. The effect of such a listing is that exports of that species from that country, and only from that country, are treated as an Appendix II species, and as such must be accompanied by an export permit. Other countries exporting the same species simply issue a certificate of origin of the specimen. We believe that it was the intent of Congress that Appendix III species would be treated as CITES species for purposes of this Act only when they were exported from the countries that listed them on Appendix III. The Fish and Wildlife Service had the same understanding and its regulations reflected that interpretation. However the FWS was sued over the regulations and the court

found that the WBCA applies to Appendix III birds, regardless of their origin. If and when Congress reauthorizes this Act, we recommend the issue be clarified to reflect what we believe was Congress's original intent.

Aid to Range States

One of the stated purposes of the act is to promote the conservation of exotic birds by "assisting wild bird conservation and management programs in the countries of origin of wild birds." In this respect the Act has fallen far short of its intent. When the European Community imposes a ban on bird imports from a range state, or sets restrictive quotas, it also supports efforts to collect the information necessary to determine safe levels of harvest and reopen the trade. The United States should do likewise. Coincidentally, a source of funding has recently become available to the Fish and Wildlife Service that can and should be used for this purpose. The Department of the Interior and the Agency for International Development have initiated a joint program to improve the capacities of developing countries to conserve biological diversity and promote sustainable development. A portion of the funds are to be used to improve the capabilities of developing countries to implement CITES. We urge the Fish and Wildlife Service to use funds under this program to help range states design wild bird management programs that will meet the requirements of the WBCA and to conduct field research necessary to support those management programs.

Summary and Conclusions

• The United States plays a huge role in international trade in wildlife; at more than $1 billion in annual imports, this country remains the world's largest wildlife market. Our level of vigilance and active assistance helps determine the fate of many commercially-valuable species, and we believe that the U.S. therefore has a special responsibility to maintain strong policies and laws to ensure that commerce in wildlife -- and in this case, birds -- does not put species at risk.

The Wild Bird Conservation Act remains a viable framework through which the U.S. can control imports of birds. Although there have been a few glitches in its implementation, they can be fixed administratively, and do not -- with the one exception noted below -- require a change in the law. We note that the Act does not appear to have resulted in a shortage of birds for sale as pets, nor have prices risen notably. If the Act is reauthorized, it should not be tinkered with, but rather it should be given a chance to work as it was intended. Our specific recommendations are as follows:

o Final regulations implementing the Act should be issued promptly.

o The Fish and Wildlife Service should be provided sufficient funds for the Act's implementation.

o Assistance should be provided to range states to help them manage their wild bird populations sustainably.

o The Fish and Wildlife Service should focus its limited resources on regulations ensuring that

the bird trade does not have a negative impact on wild populations, rather than issuing bird marking regulations.

o If the Act is reauthorized, the Appendix III issue should be clarified.

Summary of testimony
on the
Wild Bird Conservation Act

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September 28, 1995

The United States plays a huge role in international trade in wildlife; at more than $1 billion in annual imports, this country remains the world's largest wildlife market. Our level of vigilance and active assistance helps determine the fate of many commercially-valuable species, and we believe that the U.S. therefore has a special responsibility to maintain strong policies and laws to ensure that commerce in wildlife -- and in this case, birds -- does not put species at risk.

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o Final regulations implementing the Act should be issued promptly.

o The Fish and Wildlife Service should be provided sufficient funds for the Act's implementation.

o Assistance should be provided to range states to help them conserve their wild bird populations.

o The Fish and Wildlife Service should focus its limited resources on regulations ensuring that the bird trade does not have a negative impact on wild populations, rather than issuing bird marking regulations.

o If the Act is reauthorized, the Appendix III issue should be clarified.

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TESTIMONY ON THE UNITED STATES WILD BIRD CONSERVATION ACT OF 1992

Before the House Subcommittee on Fisheries, Wildlife and Oceans of the Committee on Resources

September 28, 1995

Presented by Teresa M. Telecky, Ph.D.
Director, Wildlife Trade Program
The Humane Society of the United States

On Behalf of :

American Humane Association
Defenders of Wildlife
Earth Island Institute
Environmental Investigation Agency
Society for Animal Protective Legislation
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Executive Summary

The Wild Bird Conservation Act (WBCA) was enacted by unanimous Congressional consent on October 23, 1992 for the purpose of conserving wild, exotic birds in their natural habitats. It receives the widespread support of environmental, conservation and animal protection organizations, zoos, bird breeders and pet stores. Federal legislation was recognized as being the only solution to the inherent problems of the United States trade in wild exotic birds. Prior to the adoption of the WBCA, it was recognized that:

- The United States was the world's largest consumer of wild birds for pets--importing more than 7.4 million exotic birds between 1980 and 1991.[1] High mortality of birds in trade increased the number that needed to be captured from the wild to supply the pet industry. Experts estimated that for every bird offered for sale in the United States, up to five died along the way.[2]

- American consumers were unknowingly generating a global demand for exotic birds that was severely jeopardizing wild populations. This demand was directly responsible for the endangerment of a number of species such as the Moluccan cockatoo, Goffin's cockatoo, and the blue-streaked lory. Once a species was imperiled to the point of needing international protection, the trade would simply move on to the next available species until it too would come close to vanishing. This trend repeated itself again and again.

- After nearly twenty years of attempting to regulate the commercial trade in exotic wild birds for pets through existing domestic laws, international conventions, and other mechanisms, the abuses continued. The widespread availability of inexpensive wild-caught birds encouraged the exploitation of wild populations and perpetuated the over-reliance of the United States pet market on wild bird imports. Despite the absence of the *in-situ* studies needed to determine whether trade was sustainable, birds continued to be removed from the wild in large numbers.

- The efforts of other nations to prohibit the exportation of their indigenous species had often proven futile in the face of the lucrative United States market. To supply this market, exotic wild birds were commonly laundered from a country prohibited export to a neighboring country, which permitted exports.

- The legal trade in wild birds was serving as a smoke-screen for the illegal trade. Prior to the WBCA, smugglers took advantage of the lack of controls in international trade and the lack of basic scientific information on these species to by-pass international and national restrictions on wild bird imports.

- Commercial trade in exotic wild birds was, and is completely unnecessary. Aviculture already has enough individuals of most species to work with, so inbreeding is in most cases

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[1] Wyerman, James K. *Testimony on H.R. 5013, The Wild Bird Conservation Act, before the Subcommittee on Fisheries and Wildlife Conservation and the Environment*, 16 June 1992.

[2] Lieberman, Susan. *Landmark U.S. Legislation Will Conserve Exotic Wild Birds*. Endangered Species Technical Bulletin. December 1992.

completely avoidable.[3] For some endangered parrot species, there are more birds in captivity than remain in the wild.

The WBCA is effectively addressing all of these problems. Import prohibitions have been fully active for only one short year, and already the Act is a great success. United States imports of wild exotic birds have been greatly reduced, giving wild populations the opportunity to recover from years of excessive trade. No longer is the United States responsible for the careless waste and destruction of wild birds. Instead, we are now a world leader in promoting wild bird conservation.

To ensure that the WBCA continues to achieve its intended goals, we oppose any efforts to reduce the Act's requirements for the importation of birds into this country, whether these are wild-caught or captive-bred individuals. The present requirements are the absolute minimum necessary to ensure that the WBCA is effective in meeting its purpose, and to ensure that illegal imports are not easily laundered into the legitimate United States pet market.

Easing WBCA requirements for importing foreign captive-bred birds by requiring only marking or banding would allow for the ingress of large numbers of illegal and even endangered wild birds into the United States The profits to be made from such illegal trade are lucrative, providing a great incentive for laundering wild birds as captive-bred. A recent indictment of Tony Silva, one of the world's most prominent experts in aviculture, charges him with involvement in long-term, large-scale smuggling of wild birds into the captive-bred bird market. Closed leg bands can easily be placed on the legs of young wild birds, or as in the case of this famous bird expert, cruelly forced onto the legs of wild adult birds. The presence of a closed band for any bird entering this country does not guarantee legitimacy

We strongly urge the Subcommittee to reauthorize the United States Wild Bird Conservation Act without any language changes or weakening amendments. By ensuring that exotic birds imported into this country no longer jeopardize the status of wild populations, some of the world's most beautiful birds will continue to fly free.

Background--Wild Birds Threatened by Trade

Worldwide, between 8 and 20 million exotic birds are captured from the wild annually for the pet trade. This large-scale trade destroys wild bird populations at an alarming rate. Trade and habitat destruction combined threatens at least 1,000 of the 9,200 bird species known to exist.[4]

Commercial trade is responsible for the cruel death of millions of birds every year. Even before captured wild birds leave their countries of origin, an estimated 50% die as a result of

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[3] Toft, Catherine. 1990. "Genetics of Captive Propagation (Parts I and II)" BIRDWORLD.

[4] Wyerman, James K. *Testimony on H.R. 5013, The Wild Bird Conservation Act, before the Subcommittee on Fisheries and Wildlife Conservation and the Environment*, 16 June 1992.

improper treatment and the stress of captivity.[5] Those that survive are packed into crates, loaded along with other cargo into the holds of airplanes, and transported to consuming nations. At the time of export, many of the birds already suffer from dehydration, starvation, heat exhaustion and injury. The added effects of overcrowding, inadequate ventilation, temperature extremes, stress and disease, lead to significant levels of transit mortality. For example, in just a one-year period before implementation of the WBCA, seven separate shipments imported into the United States had more than 1,000 birds dead on arrival.[6]

For birds entering the United States, a 30 day quarantine period is required, during which mortalities continue to rise. In many of these privately owned facilities, overcrowded and unsanitary conditions are prevalent. Because birds from different countries are quarantined simultaneously, disease is sometimes rampant. Between 14-20% of the birds imported into the United States during the past decade died *en route* or during quarantine. To compensate for this mortality, even greater numbers are removed from the wild to meet consumer demands.

Tragically, the destructiveness of this trade is not limited to the large numbers of wild birds captured for export. Indiscriminate methods of capture result in suffering and mortality of non-target species. Many of these are unsuitable for trade and are simply discarded. The removal of chicks from nest cavities often involves the use of an ax or machete to access the young, exacerbating problems of habitat destruction. For example, a 1991 report by Argentinean scientist Dr. Enrique Bucher revealed that roughly 100,000 trees were damaged or destroyed between 1981 and 1989, as a direct result of the legal collection of the blue-fronted amazon parrot for commercial trade. This method of collection left more than 95% of the nest sites unusable for future nesting.[7] The WBCA is now providing a critical resting period for this species, whose primary destination was the United States pet market.

Background--A Failure of Regulation and Control

After nearly twenty years of attempting to regulate the commercial trade in exotic wild birds prior to the WBCA, neither federal laws nor international controls were effective in halting the decline of wild populations due to trade, or in preventing widespread illegalities.

The dire lack of basic biological data for the majority of traded species prevents listing under the United States Endangered Species Act. Because disguising the true origin of illegally imported birds is common practice, it is almost impossible to adequately enforce the United States Lacey Act. This law forbids imports of birds taken illegally in their range countries. The majority of nations, including the United States, Brazil, Mexico, Bolivia, Honduras, Zimbabwe, Australia and India, have domestic laws prohibiting the export of native birds for

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[5] Nilsson, Greta. 1981. Bird Business: A Study of the Commercial Cage Bird Trade. Animal Welfare Institute: Washington, D.C.

[6] Nilsson, Greta. 1992. Importation of Birds into the United States in 1989. Defenders of Wildlife: Washington, D.C.

[7] Bucher, E.H. Sustainable Harvesting of Parrots for Conservation. 1992. New World Parrots in Crisis: Solutions from Conservation Biology. Smithsonian Institution Press., Washington, D.C.

the pet market. Yet, due to the demands of the United States market, nations wishing to protect birds from trade found it impossible to prevent the smuggling of wildlife to neighboring countries, which allow exports.

In one investigation conducted by the U.S. Fish and Wildlife Service (FWS) Division of Law Enforcement, two of the largest importers of wild exotic birds in the United States were found to be using the legal trade as cover for massive smuggling operations. By using falsified export permits, protected birds worth millions of dollars were smuggled into the United States. The export permits were easily obtained by bribery from the officials of neighboring nations that allow export. In another case, tens of thousands of African grey parrots were exported for years from Senegal before it was discovered that the species did not even exist in that country.[8] Once smuggled birds enter our nation, it is impossible to determine their true origin. Consequently, United States consumers were unintentionally supporting the illegal trade in wild birds, a business that the Wall Street Journal has compared to the drug trade in terms of profits, only without the threat of substantial penalties.[9]

Almost all exotic bird species for which wild individuals are subject to legal, commercial trade are listed on Appendices II and III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Appendix II-listed species, which includes all but three species of parrots, are those that might become threatened with extinction if trade is not controlled through a system of permits. Prior to granting an export permit for these species countries are required to make a finding that the export will not be detrimental to the species. However, virtually none of the studies needed to determine the sustainability of trade and make the required non-detriment findings has been conducted.

As unsustainable trade in Appendix II-listed bird species continues, wild populations eventually decline to the point of requiring an Appendix I listing, which bans international trade. However, Appendix I protection is often too late to prevent a continuing decline towards extinction. Birds in an endangered population become even more prized by collectors due to the limited number of individuals remaining. As a result, their dollar value multiplies, fueling an illegal trade which furthers the species' decline. In fact, for some species greater numbers exist in captivity than in the wild due to trade demands.

Because existing treaties, laws and regulations were providing inadequate protection, the United States, as the major consuming market for exotic wild birds, needed to take a leadership role in seeking a solution to the severe problems presented by this destructive trade. We needed to support the efforts of other nations to protect their native fauna by ensuring that we were no longer a participant in the unsustainable trade in wild exotic birds.

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[8] Nilsson, Greta. 1992. Importation of Birds into the United States Animal Welfare Institute: Washington, D.C.

[9] Allen, Michael. *Parrot Smuggling Closely Apes the Drug Trade but Isn't as Risky*. The Wall Street Journal. 28 December 1990.

The Drafting of a Solution

In order to address the problems associated with the United States trade in exotic wild birds, a Cooperative Working Group on Bird Trade was convened in 1988. Participants included representatives from conservation and animal protection organizations, the pet trade, aviculture, avian veterinarians and the zoological community. After agreeing that the United States demand for exotic pet birds resulted in harm to wild populations and unacceptable levels of mortality, the group began drafting legislation to restrict importation for commercial trade. Though it was agreed that the goal of such legislation should be to end market reliance on wild birds for pets, the constituent groups could not reach a consensus on issues such as the time-frame for ending the trade or exemptions for wild imports.

As a result of these differences, two bills addressing the wild bird trade were introduced simultaneously in the United States Congress in 1991. The United States Wild Bird Protection Act, which called for an immediate ban on imports of wild birds, was supported by more than 200 conservation and animal protection groups, ornithologists and scientific organizations. The United States Exotic Bird Conservation Act called for a five-year "phase-out" of imports and contained numerous loopholes, which would permit large-scale trade to continue under other pretenses. This legislation was supported by the American Federation of Aviculture (AFA), the Pet Industry Joint Advisory Council (PIJAC), which represented the major commercial importers, and the World Wildlife Fund (WWF).

After a year and a half of intensive lobbying and hard work, the opposing bills resulted in a virtual standstill. Finally, a delicately-crafted compromise bill, the United States Wild Bird Conservation Act, was introduced as a result of intense negotiation. The Act passed by unanimous Congressional consent and later, signed into law by President George Bush on October 23, 1992.

A Remarkable Success

Since its implementation in 1992, the United States Wild Bird Conservation Act has resulted in a dramatic reduction in the number of wild birds imported into the United States. Whereas in 1989, approximately 365,655 exotic bird were imported into this country, a recent analysis of United States Department of Agriculture quarantine forms reveals that in 1994, roughly 81,000 birds were imported. Many of these imports were birds receiving an exemption under the WBCA or those not included on CITES, and therefore not included in the scope of the WBCA. Furthermore, the WBCA has halted the enormous numbers of wild birds which had in the past died in exporting countries, in holds of airplanes and in private quarantine stations as a result of United States demand for cheap imports. Over the years, these mortalities amounted to many millions of wild exotic birds--a tragedy that remained unseen by American consumers until the campaign for national legislation.

The WBCA is indisputably having a positive result worldwide by providing wild bird populations with a critical reprieve from the capture of massive numbers for the American pet market. Just one example of a species benefitting from WBCA implementation is the blue-fronted amazon parrot of Argentina. The WBCA ban on importation of wild birds is providing

an important opportunity for this species to recuperate from the excessive numbers that were taken for export to the United States year after year.

Through the implementation of the WBCA, the United States is communicating to developing nations that we will no longer tolerate the continuation of American activities that hinder their efforts to protect indigenous bird species from the devastating effects of international trade. Prior to this Act, our involvement in the "legal" wild bird trade was promoting massive illegalities in range countries. Now, trade in wild birds will only be permitted when there is sufficient proof that it will not be detrimental to wild populations, will not incur significant mortalities and will be in complete compliance with the legal requirements of range and exporting nations. The responsibility and cost of demonstrating that the trade is not destructive will be placed on those profiting from the trade.

The WBCA has indirectly resulted in improvements, internationally, of controls on the trade in exotic wild birds. Promotion of the issue resulted in more than one hundred and twenty international airlines adopting bans on the carriage of wild birds for the commercial pet trade. Guyana banned all wild bird exports in 1993, as a result of publicity associated with exports to America. In addition, the United States' advancement of a legislative solution to problems associated with the commercial trade, contributed to adoption of a CITES resolution entitled Significant Trade in Animal Species on CITES Appendix II. This resolution seeks to ensure trade in these species occurs at sustainable levels, as required by the treaty, and allows CITES to set restrictions on trade and/or require population monitoring.

By restricting imports, the WBCA has successfully shifted the United States' reliance on imported wild birds for pets to birds that are bred-in-captivity. Prior to the Act, the widespread availability of cheap wild-caught birds fueled the continued exploitation of wild populations. Though captive-breeding could easily fulfill the demand for pet birds, the economic incentives for captive breeding simply did not exist. It is much cheaper to import wild birds than to produce them through captive breeding. As long as wild imports continued, aviculturists would be at a competitive disadvantage. Similarly, pet stores that endeavored to sell only captive-bred birds often had a difficult time competing with the stores that retailed cheaper wild birds.

By forcing the domestic bird market to shift its emphasis to captive-bred birds, the WBCA is not only helping to conserve birds in the wild, but it is also providing American consumers with healthy, captive-bred birds, which make more appropriate pets than wild-caught birds. Exotic birds bred-in-captivity, unlike wild birds, are accustomed to life in captivity and therefore make more suitable companion animals. In addition, they are generally healthier, long-lived pets (Some parrots can live for over fifty years.). The shift to birds bred-in-captivity also is advantageous from a disease standpoint. Diseases carried by wild birds, such as Newcastle's and psittacosis, can threaten human health, poultry, and native bird species.

In conclusion, the WBCA has made the United States a leader worldwide in efforts to conserve wild exotic bird species. No longer do we have the shameful distinction of being the largest consumer of the world's most threatened birds for pets.

Debate Surrounding the WBCA

At this, its three year anniversary, the United States Wild Bird Conservation Act is still not fully implemented through federal regulations. The process has been a long one, and not without complications. Because regulations for the approval of foreign breeding facilities as qualifying facilities have not been promulgated, some individuals are interpreting the lack of final regulations as a "virtual ban" under the Act on the importation of any bird for any reason. The prevalence of such misinformation within the avicultural community, coupled with intentional dissemination of fraudulent literature on the WBCA, has created an atmosphere of antagonism. False claims, created to invoke hostility towards the Act, describe how the implementing regulations for the WBCA are being used to ensure the ultimate destruction of American aviculture.

It is important to note that, originally, groups such as The HSUS supported the Wild Bird Protection Act which called for an immediate ban on all wild exotic bird imports into the United States. During negotiations on the WBCA, we relinquished three significant measures of protection for wild birds that were contained in our original legislation: 1) An immediate ban on all wild bird imports; 2) Prohibition on the import of non-CITES listed species and; 3) Exceptions to the import ban (we opposed the importation of all wild birds for commercial trade). Essentially, through compromise, we were forced to sacrifice the lives of tens of thousands of wild birds not listed on CITES which continue to be captured and imported into the United States every year.

Furthermore, as participants in the compromise process which resulted in the Wild Bird Conservation Act, we have remained faithful to our agreement of support for the Act and are not viewing the reauthorization process as an opportunity to drag everyone back to the table in attempts to further our earlier efforts for greater import restrictions.

We find it particularly ironic that the group of individuals--aviculturists-- who are most likely to profit from the end to the commercial trade in imported wild birds are those who are most opposed to the WBCA. Their claims that the WBCA will cause the collapse of American aviculture or harm the American pet industry are simply untrue. Bans on the sale of wild birds were adopted by both New York and New Jersey in 1984 and 1991, respectively. A survey revealed that New York's Wild Bird Act has benefitted not only wild birds, but also the state's captive breeding industry, pet stores and bird owners.[10] In New Jersey, consumer response to the ban on the sale of wild-caught birds and the emphasis on captive-breeding is overwhelmingly favorable.[11]

Since implementation of the Wild Bird Conservation Act, gross retail sales of pet birds and pet bird products have almost doubled. These findings demonstrate that the WBCA is not having detrimental impact on United States aviculture or the American pet trade, but rather a positive one.

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[10] Connor, Bob. *Testimony on the Wild Bird Conservation Act of 1992 before House Subcommittees on Fisheries and Wildlife Conservation and the Environment and Trade.* 16 June 1992.

[11] Herrighty, Lawrence, letter to Susan Russell, 16 August 1995.

Importation of Captive-Bred Birds Under the WBCA

The WBCA allows the import of foreign captive-bred birds. One avenue for importing such birds is through the approval of foreign qualifying facilities. Final regulations delineating the requirements for the approval of foreign qualifying facilities have not yet been finalized. Consequently, this section of the Act remains inactivated. This does not mean, as many have mistakenly assumed, that the WBCA bans the importation of captive-bred birds into the United States and should therefore be modified to facilitate importation of these birds, but rather that the release of the final regulations needs to be hastened.

We acknowledge the frustration of having to wait for final regulations to be issued. In 1988, The HSUS, Animal Welfare Institute and nine other animal protection organizations forced the FWS into court over a delay in the issuance of regulations implementing portions of the Lacey Act Amendments of 1981. The Final Rule was eventually issued in 1992, eleven years after Congress instructed the FWS to the promulgate regulations.

Despite the delay in issuing these regulations, captive-bred birds are entering the United States through other avenues provided by the WBCA. Since the implementation of this Act, United States imports of captive-bred exotic birds have remained stable, at approximately 50,000 birds annually. Foreign captive-bred birds can be, and have been, imported under WBCA cooperative breeding program exemptions. In addition, species for which there is no trade in wild individuals are included on an "approved list" and can be imported without a WBCA permit. Currently, there are more than 50 species of exotic birds on this list, including those captive-bred birds that are most commonly imported for the United States.

Requirements contained in the WBCA for the approval of foreign captive breeding facilities should not be weakened in any way. Without adequate regulations to ensure that captive-bred imports were truly bred-in-captivity, wild birds could be laundered easily into the United States pet trade. Operation Renegade, a long-term undercover operation of the FWS Division of Law Enforcement documents the ease of laundering wild birds as captive bred. Individuals are awaiting sentencing for one such scheme, which involved smuggling eggs of highly endangered Australian cockatoos into the United States to sell what amounted to more than one million dollars worth of birds under the claim that they were captive bred. In another case, these same endangered Australian birds were being smuggled into New Zealand, then exported into the United States and other countries with export permits stating they were captive-bred.

Essentially, actions to exempt captive-bred birds from the Act or weaken requirements would sanction the importation of wild, threatened and/or legally protected bird species into the United States. Without regulation under the WBCA, any CITES-listed bird could be imported simply with an accompanying export permit stating that the bird was bred-in-captivity. A number of foreign nations have a history of providing "legal" export documents for tens of thousands of illegally traded birds. One of the largest commercial importers of wild birds (prior to the WBCA) is now in prison for smuggling thousands of protected wild birds, worth millions of dollars, into the legal commercial bird trade. He simply bribed foreign officials to provide the required CITES export documents. High profits from illegal trade serve as a powerful incentive for laundering wild birds as captive-bred.

There is currently no marking technique which, when used alone, can guarantee the legitimacy of an exotic bird. Closed, seamless bands can be useful in identifying whether a bird was hatched in captivity, particularly at the state level, but if federal requirements for imported captive-bred birds were limited to banding, it would merely encourage exporting countries to band young, wild birds in commercial quantities for easy access to the United States market.

To disguise the illegal origin of birds smuggled into the United States from Mexico, seamless leg bands are sometimes placed on young wild birds.[12] Bird dealers in Africa are already in possession of closed bands to place on wild birds to launder them as having been raised-in-captivity.[13] The recent indictment of the famous aviculturist Tony Silva revealed long-term smuggling activities which involved some of the most endangered birds in the world. One of his proteges stated that Silva instructed him on how to disguise birds born in the wild as birds bred in the United States. To mask the identity of exotic wild birds, Silva allegedly forced closed bands onto the legs of grown wild birds.

The use of micro-chips to mark birds is useful, but only when accompanied by appropriate paper work. Because implants can be put in a bird at any time or can be taken from a dead bird and used again, there are opportunities for abuse. DNA analysis is essentially the only reliable method for verifying the parental origin of an exotic bird, but according to aviculturists, this method is cost prohibitive.

Because there is no practical method of marking, which when used alone, can distinguish a legitimately captive-bred bird from one captured in the wild, it is essential that the WBCA require verification the origin of captive-bred birds imported into the United States. Requiring foreign captive-breeding operations to meet certain standards of approval before they can export particular species of captive-bred birds into the United States, reduces the likelihood of illegalities.

Regulation of the Domestic Captive-Breeding Industry

Section 114 of the WBCA stipulates that within two years after the enactment of the WBCA, the Secretary of Interior will review opportunities for **voluntary** programs for labeling exotic birds and certifying exotic bird breeding facilities and retail outlets. Pursuant to this request, the FWS convened a Public Meeting last April to review existing programs of this nature. The meeting was well attended, particularly by aviculturists, who provided statements on existing marking programs within the aviculture community. It was apparent that the majority of aviculturists in attendance had been misinformed about the intent of the meeting. Repeatedly, the FWS had to explain that the purpose of the meeting was to discuss "voluntary", not mandatory, programs for marking. Some bird breeders mistakenly believed that if aviculture does not come up with a satisfactory way to regulate itself through the institution of voluntary programs for labeling exotic birds, then the government will intervene and impose such regulations.

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[12] Michels, Ann. Conversation with U.S. Fish and Wildlife Service Special Agent Joe Ramos. September 1995.

[13] Knights, Peter. 1993. Investigation of the Trade in African Grey Parrots. EIA.

Section 115 of the Act **does not** require marking and recordkeeping of **all** birds in captivity, rather it provides the Secretary of the Interior with the option of requiring marking and recordkeeping of 1) exotic birds imported into the United States after enactment and; 2) birds offered for sale of species subject to a high level of illegal trade (these are not species that are commonly bred-in-captivity). During 1992 Congressional hearings on the exotic bird legislation, the concept of marking all birds imported into the United States received broad support, including that of Gary Lilienthal, who stated on behalf of the AFA that "they are not at all opposed to the Secretary of the Interior having authorization to promulgate regulations to control importation, after enactment, of birds through any marking that's necessary on birds imported post-enactment."[14]

Presently, some aviculturists argue that costs associated with banding and recordkeeping would inhibit aviculture and put bird breeders out of business. Considering that closed bands can cost as little as forty cents each, it is unlikely that marking criteria would put aviculturists out of business. Since 1984, the New York Wild Bird Act has required the marking of all exotic birds for sale in the state. Since the law was implemented, the state has experienced a boom in captive-breeding.

It is essential that Section 115 remain intact so the Secretary of the Interior has the authority to require marking as a tactic to help curtail smuggling of particular species. The scope of any mandatory marking would be limited to the most commonly smuggled species. Each year, up to 150,000 parrots are smuggled from Mexico into the United States.[15] This illegal trade greatly endangers parrot populations throughout Mexico and Central America. In a field study of the reproduction of yellow-naped amazon parrots in Guatemala, not one chick fledged successfully for two consecutive years because they were all taken for the illegal trade.[16] According to Ernesto Enkerlin, a researcher in Monterrey, smuggling in Mexico has reduced red-crowned parrot populations by 80 percent and yellow-headed parrot populations by 90 percent in the past 20 years.[17]

The availability of cheap smuggled birds in the United States undermines efforts to market legal captive-bred birds. In addition, since smuggled birds are not processed through the United States Department of Agriculture quarantine system for Newcastle's disease, they pose a significant threat to the American poultry industry and to captive exotic birds. Though marking alone cannot ensure the legality of a bird, in coordination with record-keeping, it can help identify those birds for sale that have not been produced by breeders and are, therefore, illegal.

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[14] Lilienthal, Gary. *Testimony of the American Federation of Aviculture to a Joint Hearing of the U.S. House of Representatives Subcommittee on Fisheries and Wildlife Conservation and the Environment and Subcommittee on Trade*. 16 June 1992.

[15] Wildlife Conservation International. "The Wild Bird Trade: When a Bird in the Hand Means None in the Bush." Wildlife Conservation International. New York Zoological Society: 1992.

[16] Followill, Dave. "Raiders of the Rain Forest - The Tragedy of Smuggling." *AFA Watchbird*. July/August 1995.

[17] Hancock, Lee. "Bird Smuggling Called Big Border Problem." *Dallas Morning News*.

Exotic wild birds may start reentering the United States market as the FWS begins approving foreign countries' sustainable use management plans. United States aviculturists must take advantage of this time to begin promoting the purchase of captive-bred, instead of wild-caught birds. Labeling, recordkeeping, and informing the public about the various methods of labeling is an integral part of this effort and will help aviculturists to establish themselves as a source of quality birds.

Cooperative Breeding Programs

Permits for exemptions under the WBCA can be issued by the FWS in accordance with Section 112 to allow for the importation of otherwise prohibited species, if the FWS has determined that the importation will not threaten the species' survival. In order to apply for a permit, aviculturists must be part of a cooperative breeding program. Some aviculturists mistakenly believe that the approval requirements for such programs are impossible to meet and must be weakened substantially.

Exemptions have been granted under this section of the WBCA. However, only eleven applications for the approval of cooperative breeding programs have been submitted to the FWS. Of the eleven, five have been approved, four are pending, one was abandoned and one rejected. In some cases, applicants did not submit all of the required information. Consequently, the review process was delayed because the FWS had to wait until the remaining information was submitted before proceeding. Since only eleven aviculturists have submitted applications for the approval of cooperative breeding programs, it is difficult to understand how they can be critical of the process.

Aviculturists have made erroneous claims that the application process for cooperative breeding exemptions are simply too involved and that is why only eleven applications for the approval of such programs have been submitted. However, the majority of the requirements are measures that aviculturists should already be undertaking, if they intend to maintain healthy captive populations. Managing for genetic diversity necessitates a level of cooperation among aviculturists that has never been present before. Hesitancy or an unwillingness to cooperate and form species-specific breeding groups will eliminate any hope of achieving sound genetic management of captive-species.

Aviculturists must be willing to share the guardianship of captive birds for breeding purposes and to organize studbooks. They should continually be on the watch for problems that can threaten the genetic integrity of captive populations. Furthermore, if they intend to manage for genetic diversity, then they need to label birds and maintain records in order to identify individual specimens and their pedigrees.[18] The aviculture community must work collaboratively and be willing to communicate about the availability of birds for breeding.

Given the vast number of birds that are now in captivity, it is time for aviculturists to move on and establish genetically well-managed breeding programs.[19] Instead of depending on exotic

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[18] Toft, Catherine. 1992. "Genetics of Captive Propagation (Parts I and II)." *BIRDWORLD*.

[19] Toft, Catherine. 1992. "Genetics of Captive Propagation (Parts I and II)." *BIRDWORLD*.

wild imports to supplement captive birds, aviculturists must adjust their practices towards the goal of establishing self-sustaining captive populations. All species of commercial importance are already represented in sufficient numbers in captivity to constitute a viable gene pool.[20] The majority of bird species that are not available to aviculturists for captive breeding are either critically endangered and already protected by international law, or prohibited from trade in their country of origin.

Some aviculturists are mistakenly lead to believe that they are conserving exotic wild birds by importing them from their countries of origin, before they suffer from habitat destruction or other pressures, such as hunting. They might truly believe that they are "saving" species by maintaining them in captivity for future reintroduction and that the WBCA is inhibiting their ability to do so by restricting the importation of wild birds for breeding purposes. However, claims of this nature are most often a thinly-veiled rationalization for a personal obsession to own an endangered species or a kind rarely found in captivity.

The WBCA recognizes that American aviculturists have a valuable role to play in the conservation of exotic wild bird species, in terms of their ability to meet consumers' demand for pet birds through captive breeding. However, attempts to use captive-breeding, with the eventual goal of reintroduction, as a conservation technique, in the absence of appropriate *in-situ* conservation efforts, actually can be detrimental to wild populations.

Conclusion

Through the enactment of the WBCA, the United States is working successfully to address the problems associated with the trade in exotic wild birds. By greatly reducing imports of wild birds for the American pet market, the WBCA has removed a significant threat to wild exotic bird populations. The United States is now a leader in worldwide efforts to improve the status of exotic wild birds species. Meanwhile, consumers' demand for pet birds are being fulfilled through captive breeding, and the United States exotic pet bird market is flourishing. Since the passage of the WBCA domestic retail sales of birds and bird-related products have soared.

The WBCA does not infringe upon the ability of United States aviculturists to breed birds. The importation of exotic captive-bred birds is subject to regulation because, if we are truly interested in protecting wild bird populations from trade, we must ensure that these imports are genuinely captive-bred. As history has shown, we cannot depend on the word of exporters, importers, or a foreign governments that a bird is captive bred. The profits to be gained by illegal trade are simply too great.

Promoting the conservation of exotic birds in the wild is a goal that most of us share. The United States Wild Bird Conservation Act is a valuable tool for accomplishing this goal. Let's not jeopardize the continued success of this unique legislation. We urge the Members of the Subcommittee to support the reauthorization of the Wild Bird Conservation Act without weakening amendments.

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[20] Allen, C. M., & K.A. Johnson. 1991. *Psitticine Captive Breeding Survey-A Survey of Private Aviculture in the United States*. World Wildlife Fund U.S., Washington, D.C.

TESTIMONY FROM

THE

AMERICAN ORNITHOLOGISTS' UNION,

THE ORNITHOLOGICAL COUNCIL

AND

THE ASSOCIATION FOR PARROT CONSERVATION

ON THE

REAUTHORIZATION OF THE

EXOTIC WILD BIRD CONSERVATION ACT OF 1992

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28 September 1995

Executive Summary:

Professional ornithologists strongly support the reauthorization of the Exotic Wild Bird Conservation Act of 1992. Until the passage of the act, wild bird populations were being decimated as a result of importation into the United States and other countries. International trade threatens many groups of birds, but principal problems have been seen with parrots, which are unable to sustain much pressure on wild populations. International regulations have been unable to control this multi-million dollar trade, which increasingly threatens the existence of wild bird populations and entire species. Captive breeding is the major source of individuals in trade for only a handful of bird species. Prior passage of the act, the numbers of wild-caught live exotic birds imported into the United States for commercial activities were unsustainable and indefensible. The sale of these wild-caught birds had to be stopped and the Exotic Wild Bird Conservation Act accomplished this goal in an effective manner.

Captive breeding of birds can serve a variety of values (exhibit, pets, research, conservation education, and fund-raising pruposes), but birds in captivity have very limited utility for recovering endangered species in the wild. To recover endangered species, birds must: (1) be bred in captivity for reintroduction at the earliest possible opportunity; (2) kept in single species facilities in countries of origin to minimize disease risks; (3) be kept from becoming tame or domesticated, which occurs very rapidly in captivity; (4) be part of conservation programs that are fully integrated with field efforts to conserve habitats and correct limiting factors causing population decline. Aviculturists have been very reluctant to meet these requirments. Their birds are kept in multispecies facilites so are high disease risks to reintroduce, and they are selected to become domesticated to be good companion animals. Birds produced by private or commercial aviculture are hardly ever suitable for reintroduction to the wild.

Critics of the Exotic Wild Bird Conservation Act claim that the decrease in the importation of wild birds makes it difficult to maintain the genetic diversity of their captive populations. Only limited genetic diversity is required for maintaining permanent captive populations not used for reintroduction to the wild (i.e. avicultural collections). All species of commercial importance are already represented in sufficient numbers in captivity to constitute a viable gene pool under active, cooperative management (50-75 birds per species). Species with fewer individuals in captivity are obviously not of commercial importance.

The Exotic Wild Bird Conservation Act has good provisions to encourage and control sustainable use. But before strong hopes are placed in sustained harvesting as a conservation strategy, several demonstration projects must be conducted to determine the feasibility and scale of harvesting. In the face of pressures from current unsustainable harvesting, most attempts at sustainable harvesting are likely to fail. Obtaining the biological and sociological data to conduct a sustainable trade will require investments of time and money, but trade should not have been allowed in the first place without this information.

It is premature to suggest many improvements to an act which is so recent that many of its rules and regulations have yet to be promulgated. However, there are two suggestions that we would make: (1) The most pressing need is to allocate money to the fund that was created by the act for studies needed to support and enforce the act (e.g., investigations of the potential of sustainable harvesting, or the development of genetic markers to monitor the birds from captive breeding programs). Funding is also needed to ensure the proper enforcement of this legislation and to deter smuggling; and (2) Ten bird families were exempt from this act due to political and not biological reasons, and this exception should be eliminated.

Introduction

I am a professor of ecology and conservation biology at Yale University, and curator of ornithology at the Peabody Museum. I have conducted field studies and published extensively on the biology and conservation of birds throughout the United States, Latin America, and the Carribean for the past 20 years. In particular, I am a recognized authority on avian population ecology, endangered species conservation, parrot and raptor biology, and the exploitation of and international trade in birds.

I testify today on behalf of eight organizations of scientists who study birds. The American Ornithologists' Union (AOU) is the largest and oldest organization of professional ornithologists in the United States. Representing over 4500 scientists from each of the United States and from 66 countries around the world, the organization is dedicated to the study of birds and their conservation. The Ornithological Council consists of the AOU and six other professional ornithological societies of North America (the Association of Field Ornithologists, Colonial Waterbird Society, Cooper Ornithological Society, Pacific Seabird Group, Raptor Research Foundation, and Wilson Ornithological Society). The Association for Parrot Conservation (APC) represents more than 100 scientists from the United States, Latin America, the Carribbean, Africa, Europe, and Australia concerned with the scientific study and conservation of parrots. Together, these groups comprise the vast majority of professional scientists who study birds.

These professional societies have thoroughly investigated the scientific basis for the international trade in wild and captive-reared birds. In 1990 the AOU formed a subcommittee of five distinguished ornithologists concerned with bird trade issues representing academic ornithologists, conservationists, zoo biologists, and museum curators. The charge of this subcommittee was to review the problems associated with the bird trade and to make recommendations for effective ways of dealing with the detrimental influences of trade on wild bird populations. Its report is appended to this testimony. Likewise, APC held a symposium in June 1994, and developed policy statements on the wild bird trade and on the use of captive breeding in conservation. These statements are also appended to this testimony.

Together, these documents and the scientific literature I will discuss represent a concensus of current scientific opinion on the wild bird trade, and the role of captive breeding and sustainable harvesting in avian conservation. They contain important conclusions that pertain to the reauthorization of the Exotic Wild Bird Conservation Act that I will now summarize.

The Exotic Wild Bird Conservation Act Needs to Be Reauthorized

Until the passage of the Exotic Wild Bird Conservation Act in 1992, wild bird populations were being decimated as a result of importation into the United States and other countries. The United States had represented the largest market for an international trade in wild birds that exceeds two million individuals annually (Inskipp 1990). For example, nearly two million birds from 85 countries were legally imported into the United States between 1986 and 1988 (Nilsson 1990). Forty-three percent of these birds were parrots, while about 54% were finches (Estrildidae, Fringillidae, and others) primarily from Africa. The remaining 3% represented 77 different families of birds. The countries exporting the most birds to the United States were Senegal, Tanzania, and Argentina.

Parrots represent the largest monetary share of commerce. The United States accounted for 47% of all parrots sold internationally, and perhaps 80% of the trade in Neotropical parrots, followed by the European Economic Community and Japan (Thomsen and Mulliken 1992). Approximately 1.8 million Neotropical psittacines, nearly all captured from the wild, were legally exported for trade from 1982 to 1988 (Thomsen and Mulliken 1992). The actual numbers taken from the wild for commercial activities were probably several times as large, when internal trade, illegal export (e.g., 150,000 parrots per year smuggled through Mexico; Thomsen and Hemley 1987), and high mortality rates of birds harvested from the wild (e.g., 60% die before exportation in Mexico; Ramos and Iñigo 1985) are considered. These data led Thomsen and Mulliken (1992) to estimate that the actual numbers of wild Neotropical psittacines harvested for international trade between 1982 and 1988 may have been almost four million birds. The retail monetary value of the 1.8 million parrots legally exported during this period has been estimated at $1.6 billion (Thomsen and Brautigam 1991).

This multi-million dollar trade increasingly threatens the existence of wild bird populations and even entire species. Although nearly all exporting countries are members of the Convention on International Trade in Endangered Flora and Fauna (CITES), and many exporting countries have adopted trade regulations, the domestic and international laws which are supposed to ensure that trapping for trade does not result in species declines have been largely ineffective (Thomsen and Mulliken 1992). Together, trade and habitat destruction now clearly represent the two major conservation problems afflicting these and many other kinds of birds worldwide.

International trade threatens many groups of birds, but principal problems have been seen with parrots, which as a group are unable to sustain much pressure on wild populations (Inskipp et al. 1988). Collar and Juniper (1992) concluded that 42 of approximately 140 species of Neotropical parrots are currently at risk of extinction. For 22 of these species, trade is a major cause of endangerment. Examples of parrots now critically threatened by trade include the Spix's Macaw (*Cyanopsitta spixii*), the Hyacinth Macaw (*Anodorhynchus hyacinthinus*), the Tucuman Amazon (*Amazona tucumana*), and the Red-crowned Amazon (*Amazona viridigenalis*) (Collar and Juniper 1992).

Although parrots are most threatened by trade, other birds are also affected (Nilsson 1989). Among nonpsittacines threatened by trade are Toucan Barbets (*Semnornis ramphastinus*), Red Siskins (*Spinus cucullatus*), Rothschild's Starlings (*Leucopsar rothschildi*), Hill Mynahs (*Gracula religiosa*), Sumba Hornbills (*Rhyticeros everetti*), White-necked Picathartes (*Picathartes gymnocephalus*), Yellow Cardinals (*Gubernatrix cristata*), Yellow-faced Siskins (*Carduelis yarrellii*), Long-wattled Umbrellabirds (*Cephalopterus penduliger*), Gurney's Pittas (*Pitta gurneyi*), Buffy-throated Seedeaters (*Sporophila frontalis*), Marsh Seedeaters (*S. palustris*), Seven-colored Tanagers (*Tangara fastuosa*), and Laughing Thrushes (*Garrulax* spp.).

Little information is available on how trade is affecting most nonendangered species. However, if the Blue-fronted Amazon (Amazona aestiva) is any indication, trade is probably having a strong effect even on many common species. Over 45,000 Blue-fronted Amazons were exported from Argentina between 1982 and 1986. It is virtually inconceivable that this species can continue to sustain such harvest levels much longer, as evidenced by its disappearance from many areas of its range (Beissinger and Bucher 1992).

Trade is likely to be as threatening to most parrots as habitat destruction, because many parrots are habitat generalists. This is exemplified by the large number of parrot species that have been introduced, as a result of the pet trade, and have become established in urban habitats around the world. In addition, the harvest of nestlings of hole-nesting species often involves

destruction of nest trees, posing a further stress on wild populations limited by nest availability.

Captive breeding is the major source of individuals in trade for only a handful of bird species -- Budgerigars (*Melopsittacus undulatus*), Cockatiels (*Nymphicus hollandicus*), Canaries (*Serinus canaria*), Zebra and Bengalese Finches (*Amandava subflava* and *Lonchura domestica*), most *Agapornis* lovebirds, several species of cockatoos (*Cacatua*), and a number of Australian finches (e.g., *Chloebia gouldiae, Poephila cincta, Poephila acuticauda*). *For most other birds, essentially all individuals in trade come directly from wild sources, either trapped as free-flying adults or taken as nestlings.*

The importation of live exotic birds should be sustainable. It should not pose risks for wild populations of species that are imported. There is no justification for commercial endeavors to result in the extinction in the wild of a species. On the basis of the information presented above, *the numbers of wild-caught live exotic birds imported into the United States for commercial activities before the passage of the act were unsustainable and indefensible.* The sale of these wild-caught birds had to be stopped so that species would not be driven to extinction. Most countriesw with species exploited for international trade acknowledged the current crisis of unsustainable use by simply prohibiting all trade in wild-caught birds.

The Exotic Wild Bird Conservation Act accomplished this goal in an effective manner, yet still encouraged the sustainable use and captive breeding of species. *The need for this act remains today, and choosing not to reauthorize it would guarantee a return to the situation that persisted before 1992 which threatened many bird species.* Populations of most species have been severely affected by decades of overharvesting, and many of these species reproduce very slowly. It will require several generations for populations of most species to recover. Many of the most desirable birds in the trade are long-lived and generation times probably exceed 10 years. Thus, the goals of this act will probably not be reached for at least 20 years.

The Legitimate Role of Captive Breeding in Recovering Endangered Birds

Captive breeding of birds can serve a variety of values. In particular, captive breeding can provide birds for exhibit, pets, conservation education, and fund-raising pruposes. Captive populations can be an important source for fundamental biological research and training. While all are potentially valuable contributions of captive birds, they are only indirectly related to recovering endangered populations of wild species. Captive breeding for other purposes should not be confused with captive breeding for recovering endangered species, which requires very different activities and precautions.

To recover endangered species, birds must be bred in captivity for release in the wild (reintroduction) at the earliest possible opportunity. Every precaution must be taken to avoid placing species in close proximity to minimize disease risks by placing birds in single species facilities. Ideally, these facilities should be within the native range of the species to minimize exposure to (and introduction of) exotic diseases (to the wild populations). Special care must be taken to keep the birds from becoming tame or domesticated because they are less likely to survive when reintroduced. Such domestification proceeds very rapidly in captivity. Also, captive breeding programs must be fully integrated with field conservation efforts to preserve habitats and correct the factors that originally caused the population decline. Since these are exotic birds, countries in their native range should be involved in their captive breeding and reintroduction.

Aviculturists committed to conservation could play a role in future reintroduction programs if adequate control over disease threats and domestication can be achieved, and the ownership and control of birds is given up to a central authority. To date, aviculturists have been very reluctant to meet these requirments. Their birds are usually kept in multispecies facilites in close proximity to many other species so are high disease risks to reintroduce to the wild. Furthermore, their birds are selected to become domesticated to be good companion animals.

In general, birds in captivity have very limited utility for recovering their wild counterparts. This conclusion has been reached by scientists involved in some of the most intensive captive breeding programs for endangered species recovery (Snyder et al. in press). *While captive breeding has served an important role in the recovery of a few select species, it's potential for recovering endangered populations is severely limited by*: (1) difficulties in breeding certain species in captivity; (2) difficulties in successfully reintroducing many species to the wild; (3) the high costs of captive breeding facilities and personnel; (4) the risks of introducing exotic diseases, which are common in captive environments, to the wild; (5) progressive domestification and loss of genetic diversity in captivity which makes animals unsuitable for reintroduction; (6) problems in ensuring continuity of captive breeding programs for the decade or more it may require for successful reintroduction; and (7) the premptions of other, better techniques that could conserve endangered species in the wild. Details about these limitations can be found in the appended APC policy statement on captive breeding.

Thus, captive breeding of exotic birds as a conservation strategy should be pursued only as a last resort, and only as part of internationally recognized and structured programs. The promotion of captive breeding as conservation by aviculturists is sometimes a rationalization for keeping exotic birds in captivity in private collections. Such an excuse was used by convicted cockatoo smugglers this past summer to justify their illegal activities.

Captive Breeders Do Not Need Continued Access to Wild Stocks

Critics of the Exotic Wild Bird Conservation Act claim that the decrease in the importation of wild birds makes it difficult to maintain the genetic diversity of their captive populations. This is a misconception, as limited genetic diversity is required for maintaining permanent captive populations not used for reintroduction to the wild (i.e. avicultural collections). In fact, *all species of commercial importance are already represented in sufficient numbers in captivity to constitute a viable gene pool under active, cooperative management (50-75 birds per species). Species with fewer individuals in captivity are obviously not of commercial importance.* In other words, if aviculturists would only be willing to manage their gene pools by moving birds among their private collections, they could take advantage of the more than sufficient genetic diversity that is already present in maintaining their captive populations.

For aviculture and captive breeding of exotic species to decrease pressure on wild populations and result in conservation, captive breeding must become self-sustaining. In other words, captive breeding must be conducted without requiring the continued importation of wild-caught birds. Instead of supplementing captive birds with wild imports, private aviculturists must begin to adjust their practices toward the goal of self-sustaining captive populations, including better coordination of studbooks to maintain genetically viable captive gene pools. Organizing the exchange of birds to become genetically self-sufficient has been hampered by the secretive nature of the aviculture community and by receiving financial support from businesses that benefit directly from the continued importation of wild-caught birds.

Sustainable Harvesting is Goal Worth Pursuing Cautiously

If importation of wild birds is to continue, it must be done on a sustainable basis, that is it must be implemented in such a way that it does not pose threats to wild populations. Important biological information is needede to determine what levels of harvest would be sustainable (Beissinger and Bucher 1992). This information has not been gathered for any species in the trade, most export quotas are not based on scientific data and quotas for most countries need to be lowered drastically. Biological data suggest that there is a good potential to harvest some parrots in a sustainable manner through habitat management operations (Beissinger and Bucher 1992), although no "ranching" projects with free-flying birds have been attempted to date. Careful evaluations of the biological, social, and economic problems of implementing harvest programs must be conducted.

When implemented properly and conservatively, however, sustainable harvesting could provide advantages for conservationists, aviculturists, the pet industry, and local peoples. Conservationists could gain by having healthy populations of wild parrots, and by transmitting economic value to habitats to help conserve them in their natural states. For example, if parrots can be sustainably harvested from tropical rain forests, this would provide another commodity which might help to make extractive reserves more economically valuable than forest land cleared for timber harvest or cattle production. Sustained harvesting of many bird species will require that substantial areas of land be maintained as mature forest. Aviculture and the pet industry would have a steady but small inflow of legally imported birds already conditioned to captivity. Finally, the profits from these programs could be directed to the local people in need of ways to support themselves, and the economy of nations that are trying to develop. *Currently, local people receive hardly any financial benefit compared to the importers who have become wealthy from this trade.*

Realizing the benefits of trade requires a degree of control over harvesting that is difficult and expensive to achieve. Solving the biological problems associated with sustained harvest of birds may be easier than solving some of the social and political problems. Particular problems for sustainable harvesting programs are posed by the illegal laundering of birds by personnel in these programs, poaching of birds by people outside of these program, the development of reliable marking systems to identify legal birds, and the temptation to overharvest to make more profit. *Without strong controls over harvesting programs, attempts at sustained harvesting could increase conservation problems rather than solve them.*

The Exotic Wild Bird Conservation Act has good provisions to encourage and control sustainable use. But before strong hopes are placed in sustained harvesting as a conservation strategy, several demonstration projects must be conducted to determine the feasibility and scale of harvesting. Experimental programs of sustained harvesting could be run to find solutions to the problems of illegal laundering of birds, poaching, reliable marking systems, and overharvesting. *In the face of pressures from current unsustainable harvesting, most attempts at sustainable harvesting are likely to fail.* Obtaining the biological and sociological data to conduct a sustainable trade will require investments of time and money, but trade should not have been allowed in the first place without this information.

Improvements Needed To the Act

It is premature to suggest many improvements to an act which is so recent that many of its rules and regulations have yet to be promulgated. However, there are two suggestions that we

would make.

The most pressing need is to allocate money to the fund that was created by the act. This fund is supposed to be used for the kinds of programs and studies needed to support and enforce the act (e.g., investigations of the potential of sustainable harvesting, or the development of genetic markers to monitor the birds from captive breeding programs). Funding is also needed to ensure the proper enforcement of this legislation and to deter smuggling.

Finally, *ten bird families were exempt from this act due to political and not biological reasons, and this exception should be eliminated.* The only reason these families were exempted from this legislation was because of pressure from special interest groups - a few game bird breeders tied up the telephones of a congressional aide.

Excluding these so called "game birds" from this legislation actually reinforced a market for them. Traders no longer able to export species they have traded for years will switch to these species, which up until now have primarily been captive-bred. And they will find a market for wild birds in zoos, breeders, and private collections.

Only a handful of the species in these families are covered by the Endangered Species Act (ESA) or CITES. Many of the rest are thought to be declining in the wild. For example, Oscillated Turkeys are not on CITES, nor are they listed as endangered species, but they are declining rapidly. They are bred in captivity, but they are also being taken from the wild. Similarly, this legislation endorses greater importations of Black-fronted Piping Guans from Argentina and Horned Guans from Guatemala. Both species are considered at risk of extinction by IUCN, but are not on CITES or listed under ESA and are imported by private breeders. Private breeder are vying to import White-eared Pheasants from China, even though they are very rare in the wild, because the captive population in the U.S. suffers from inbreeding. The first Chinese importer of this species would make a killing!

Excluding entire families from this bill to promote the conservation of exotic birds was simply inappropriate. It gives no impetus to develop programs to the manage genetic diversity of captive populations of these families, since wild stock will always be available, or to promote their sustainable use in the wild. The act fosters the mismanagement of birds that are not only threatened by habitat destruction, but are often hunted throughout their range by local peoples.

Instead of excluding these families or others (e.g. raptors), let the U. S. Fish and Wildlife Service evaluate which species should be traded. Most game birds of economic importance are primarily captive-bred and would be placed on the "clean list" of captive-bred species anyway. In reality, no exemption for them is needed in the definition of exotic bird.

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The Conservation Crisis
International Trade in Live Exotic Birds Creates a Vast Movement That Must Be Halted

Bird Trade Subcommittee of the AOU Conservation Committee[1]

While we have heard warnings about a large decline in birds that breed in the Temperate Zone and winter in the tropics ("Neotropical migrants"), a "reverse migration" of sorts is draining avian diversity from many tropical areas to the living rooms of developed countries. In recent years, the international trade in live exotic birds has grown greatly. Estimates of the current magnitude of the live trade in exotic birds range from two to five million individuals annually (Inskipp 1990). These figures exclude the trade of 15.9 to 26.5 million swiftlet nests annually from southeast Asia (Lau and Melville 1990).

Because the United States is presently the largest importer of exotic birds in the world (Mulliken and Thomsen 1990), the conservation of birds in other countries will be affected greatly by regulations of the United States concerning trade. The AOU Conservation Committee formed a subcommittee of ornithologists concerned with bird trade issues in July 1990. The charge of this subcommittee was to review the problems associated with the bird trade and to make recommendations for effective ways to deal with the detrimental influences of trade on wild bird populations.

Nearly two million birds from 85 countries were legally imported into the United States between 1986 and 1988 (Nilsson 1990). Forty-three percent of these birds were parrots, while about 54% were finches (Estrildidae, Fringillidae, and others) primarily from Africa. The remaining 3% represented 77 different families. The countries exporting the most birds to the United States were Senegal, Tanzania, and Argentina. Accurate data on the scale of internal (nonexport) trade in birds are not available, although this trade is also thought to be substantial in many countries.

Parrots represent the largest monetary share of commerce. Forty-seven percent of all parrots sold internationally, and perhaps 80% of all Neotropical parrots, are sold in the United States. Most of the remainder is bought by members of the European Economic Community and Japan (Thomsen and Mulliken 1991). Approximately 1.8 million Neotropical psittacines, nearly all captured from the wild, were legally exported for trade from 1982 to 1988 (Thomsen and Mulliken 1991). Estimates of internal trade, parrot mortality before exportation, and the magnitude of illegal smuggling suggest that the number of birds removed from the wild would actually have been two or three times as great as the legal exports (James 1991, Thomsen and Mulliken 1991).

This multimillion dollar trade increasingly threatens the existence of wild bird populations and even entire species. Although nearly all exporting countries are members of the Convention on International Trade in Endangered Flora and Fauna (CITES), and many exporting countries have adopted trade regulations, the domestic and international laws that are supposed to ensure that trapping for trade does not result in species' declines have been largely ineffective (Thomsen and Mulliken 1991). Trade now threatens the very existence of a number of these species, but principal problems have been seen with psittacines, which as a group are unable to sustain much pressure on wild populations (Inskipp et al. 1988). Collar and Juniper (1991) concluded that 42 of approximately 140 species of Neotropical parrots are currently at risk of extinction. For 22 of these species, trade is a major cause of endangerment. Examples of parrots now critically threatened by trade include the Spix's Macaw (*Cyanopsitta spixii*), the Hyacinth Macaw (*Anodorhynchus hyacinthinus*), and the Red-crowned Parrot (*Amazona viridigenalis*). Examples of other birds threatened by trade include Toucan Barbets (*Semnornis ramphastinus*), Red Siskins (*Spinus cucullatus*), and Yellow-faced Siskins (*Carduelis yarrellii*) (Nilsson 1989). Thus, trade and habitat destruction together now clearly represent the two major conservation problems afflicting these and many other birds worldwide.

Captive breeding is the major source of individuals in trade for only a relatively few species—Budgerigars (*Melopsittacus undulatus*), Cockatiels (*Nymphicus hollandicus*), Common Canaries (*Serinus canaria*), Zebra Waxbills (*Amandava subflava*), and Bengalese Finches (*Lonchura domestica*), most *Agapornis* lovebirds, several species of cockatoos (*Cacatua*), and a number of Australian finches (e.g. *Chloebia gouldiae*, *Poephila cincta*, and *P. acuticauda*). For most other species, essentially all individuals in trade come directly from the wild, either trapped as free-flying adults or taken as nestlings. In many areas the harvest of nestlings of hole-nesting species involves destruction of nest trees. This poses a further stress on wild populations limited by nest availability (Beissinger and Bucher 1991). *The Bird Trade Subcommittee believes strongly that current numbers of wild-caught live exotic birds being imported into the United States for commercial activities are indefensible*

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and that the sale of these wild-caught birds must be stopped as soon as possible.

A detailed report documenting our subcommittee's recommendations is in progress and will be completed shortly for publication. In this report we develop seven principles for guiding an international trade in live exotic birds, based on the implications of an international bird trade on the conservation of wild bird populations in countries of origin as well as in North America. If there is to be an international bird trade, then the importation of live exotic birds should (1) be sustainable and not pose risks of extinction for wild populations of species that are imported (several psitticines are now gone from the wild, their last representatives sold to parrot collectors); (2) not pose significant risks of transmitting exotic diseases to native species, poultry, or other birds held for legitimate purposes such as exhibition or scientific study (current quarantine procedures have not stopped outbreaks of exotic diseases and improved procedures are needed); (3) not result in significant potentials for the establishment of feral populations (many already exist in our country having been imported as pets); (4) be consistent with U.S. policies concerning the use of native species (most commercial uses of native birds are prohibited and those that are allowed require carefully regulated licenses, yet nonnative birds can be kept without permits); and (5) have regulations that are economically feasible, practically enforceable, simple, and effective (regulations should not preclude the scientific study of birds in captivity, international recovery efforts, or public exhibition for educational purposes). Captive breeding of exotic species for aviculture should (6) be self-sustaining (i.e. without requiring the continued importation of wild-caught birds) and conducted humanely; and (7) be used as a conservation strategy only as a last resort, and only as part of internationally recognized and structured programs fully integrated with preservation and reintroduction efforts (not a panacea promoted by aviculturists as a rationalization for keeping exotic birds in captivity). *The Bird Trade Subcommittee recommends that the importation of exotic live birds, including the importation of birds reared in captivity, should be conducted only if it can meet these seven general principles.*

In recognition of the pivotal role of the United States in affecting international trade and conservation of birds, two bills to decrease the trade of wild-caught exotic birds were introduced to Congress in June. The bills were submitted by the Cooperative Working Group on the Bird Trade (H.R. 2541, F. 1218) and by the Defenders of Wildlife (H.R. 2540, F. 1219). The proposal of the Cooperative Working Group on the Bird Trade was drafted by nine organizations including representatives of the pet trade industry and aviculture, and a number of conservation organizations including the National Audubon Society, the International Council for Bird Preservation, and the World Wildlife Fund U.S., the coordinating organization. The proposal by the Defenders of Wildlife is supported by the Animal Welfare Institute, the Humane Society, the Sierra Club, and a variety of other conservation groups.

Both bills call for partial bans that would phase out the pet trade of wild-caught birds after varying lengths of time, but both bills allow the importation of captive-bred and ranched birds for commercial activities and continue the importation of wild-caught birds by permit for commercial aviculture. Neither bill specifically addresses quarantine regulations, the problems of establishment of feral populations, nor ethical inconsistencies with U.S. policies concerning the use of native species. Both bills exclude dead birds (specimens) imported for scientific purposes from regulations and permit live birds to be imported for scientific study.

Principal differences between the two proposals concern the immediacy of the phase-out (five years for the Working Group and one year for Defenders), the limits for the import of wild-caught birds for captive breeding (not addressed in the Working Group proposal vs. limited in the Defenders proposal), and the amount of detailed regulations governing each activity (large in the Working Group proposal and scant in the Defenders proposal). Both proposals represent positions that proponents feel have a chance of being enacted into law. Both proposals could result in a decrease in the number of exotic birds imported into the United States, but still provide avenues for many birds to be imported depending upon the nature of regulations and degree of enforcement.

The subcommittee supports the passage of legislation to curb the importation of live exotic wild-caught birds. The organizations that have crafted the two bills being considered by Congress should be commended. Unfortunately, neither bill explicitly deals with all of the principles that we believe are necessary to guide any trade in live exotic birds. The enactment of one of these bills could represent a positive step towards the conservation of biological diversity. But because these bills are incomplete, even if one is passed, we feel that additional legislation will be necessary to solve the bird trade problem.

The Bird Trade Subcommittee feels it is important to state an optimal solution to the bird trade problem from the standpoint of conserving wild populations of birds, recognizing that this position may present political difficulties in enactment. *The Bird Trade Subcommittee recommends a moratorium on the importation of wild-caught birds to the United States for a fixed period.* The two bills before Congress would both enact a partial moratorium, but even after the period of phase-out was completed, both bills would still allow birds to be imported for aviculture and private collections including threatened and declining species. We recommend a moratorium because it is the most sensible stance in terms of its potentials for immediately re-

ducing the detrimental effects of the trade in exotic live birds on wild populations, its simplicity and effectiveness of regulations, its ethical consistency in treatment of native and foreign wildlife, and its cost effectiveness. During a moratorium, experimental programs of captive breeding and ranching could be carried out in selected exporting countries to find solutions to the problems of disease control, illegal laundering of birds, and other associated problems. In our view, a moratorium would be held open for limited importations of birds as part of internationally recognized scientific studies of birds in captivity, recovery efforts, or public exhibitions for educational purposes.

Concerned citizens and readers of *The Auk* can urge their elected representatives to support the enactment of an exotic bird trade act and to strengthen the proposed legislation by strengthening quarantine regulations and enforcement requirements, and by decreasing the number of avenues for birds to be legally imported under these regulations.

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ASSOCIATION FOR PARROT CONSERVATION
ASSOCIAÇÃO PARA A CONSERVACÃO DE PSITACIDEOS
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ASSOCIATION FOR PARROT CONSERVATION

POSITION STATEMENT

CAPTIVE BREEDING AS A RECOVERY MEASURE

For further information about the Association for Parrot Conservation, please call (301) 897-3456 or write to APC, 13 East Rosemont Avenue, Alexandria, Virginia 22301(USA)

ASSOCIATION FOR PARROT CONSERVATION

POSITION STATEMENT

CAPTIVE BREEDING AS A RECOVERY MEASURE

written by

Dr. Noel Snyder, Director, Thick-billed Parrot Program, Wildlife Preservation Trust International, Portal, Arizona

Captive breeding has served a crucial function in the recovery of a number of species of critically endangered wildlife, and has a role to play in the recovery of certain parrots. However, the Association for Parrot Conservation (APC) also recognizes that there are significant limitations to this technique when it is used as a recovery measure (i.e., birds are bred for ultimate release to the wild). In general, APC recommends it only as a short-term technique when other preferable conservation options are not immediately available. Employed properly in recovery programs, captive breeding can provide a critical boost for some severely threatened populations. Employed improperly, it can lead to greatly increased recovery costs and risks rather than benefits. It is important, therefore, to identify when it should or should not be used as a recovery measure.

APC also recognizes that captive breeding has other values that are less directly related to species recovery, such as providing birds for exhibit, conservation education (especially to help convince the public of needs for habitat preservation), and fund-raising purposes. Captive populations can also provide an important resource for fundamental biological research and research training that cannot be accomplished with wild individuals. The precautions that should be observed in captive breeding for recovery purposes are different from those that are appropriate for captive breeding for these other purposes. In this position statement, APC addresses the advantages, disadvantages, and precautions that relate to captive breeding for recovery (reintroduction) purposes, without implying that this is the only sphere in which captive breeding plays a role in conservation.

Advantages of Captive Breeding in Species Recovery Programs

When captive breeding is properly integrated into a species recovery program it can offer a number of advantages. Most importantly, it can serve as a safety net for species whose wild populations face a high probability of extinction. With species that breed readily in captivity, it is sometimes possible to greatly increase the rate of reproduction through techniques such as multiple-clutching, and speed the recovery of wild populations through releases of captive-bred birds. Potentially, such releases can serve a number of purposes such as increasing extant populations, correcting sex-ratio imbalances, reestablishing extirpated populations and/or establishing new populations in natural or altered habitats. If conducted properly, captive breeding can sometimes make it possible to minimize losses of genetic diversity from critically threatened populations and minimize chances of catastrophic loss of populations.

Captive populations have an important role to play in species recovery when pressures on wild populations are truly overwhelming in the short term and there is no way to sustain wild

populations. In such cases, captive breeding can provide a short-term reprieve, buying time for preparation of reintroduction sites that may permit reestablishment of wild populations.

Limitations of Captive Breeding

The potentials of captive breeding for species recovery are limited by a number of important considerations:

(1) Difficulties in breeding certain species. Most psittacines have been bred in captivity, but sustained and quantitatively adequate captive production has remained an elusive goal for many species (see Clubb 1992). For others, satisfactory production has been attained only by hand-rearing. Unfortunately, hand-reared birds can generally be expected to be of lesser value than parent-reared birds for reintroduction purposes, and in some cases, they may be impossible to reestablish in true wild environments.

(2) Difficulties in reintroducing many species to the wild. Reintroduction programs for vertebrates to date have been relatively unsuccessful when limited to captive-bred stock -- averaging 11 - 38% successful in recent major surveys by Beck et. al. (1994) and Griffith et. al. (1989). Reintroductions of captive-bred parrots may often be expected to face problems with behavioral deficiencies resulting from a large component of learning in parrot behavioral repertoires and a difficulty in producing adequately normal behavior in captive environments. Unless captive-bred individuals are reintroduced by fostering to wild pairs or are released in predator-free or predator-deficient environments, many reintroductions may fail because of inadequate flocking behavior and poor habitat recognition abilities (see Snyder et al. 1994). The bottleneck in using captive breeding successfully in species recovery often lies in problems in reintroduction rather than in captive breeding itself.

(3) High costs in facilities and personnel. The costs of properly-run captive- breeding programs, including isolated, well-sited facilities, comprehensive disease control, and the manpower needed to maintain and care for the captive populations are substantial, sometimes running on the order of a half million dollars per year. Over the time needed for conservation programs, such costs can sometimes far exceed those of other potential conservation methods. Techniques such as habitat preservation (which automatically benefits far more species than the single parrot species under consideration) are often far more economical. On the basis of costs vs. benefits, captive-breeding is commonly an undesirable option.

(4) Disease risks. Parrots are susceptible to over 30 known pathogens and disease syndromes, many of which are widespread in captive collections and some of which cannot be reliably detected in carrier birds by presently available tests or standard quarantine procedures. Of course, diseases also occur in wild populations. However, wild populations are relatively well adapted to deal with indigenous diseases through natural immunities, and the greatest risks occur when species are exposed to novel, exotic diseases. Such exposure risks are especially great whenever birds are transported or held in large numbers in multispecies environments. Unless captive breeding is conducted under carefully controlled conditions, the risks of disease to captive, reintroduced, and wild populations are substantial. Ideally, to minimize these risks, captive breeding of endangered parrots for recovery purposes should occur in:

a) closed, single-species facilities.

b) facilities within the natural range of the species.

c) facilities in which staff do not have contact with other species of wildlife, either professionally or avocationally.

d) facilities that are sited as much as possible in areas free from arthropod disease vectors

and feral populations of exotic birds.

e) facilities where established protocols include rigorous disease prevention methodologies, such as scrub-downs of personnel entering the facilities, and regular health examinations of captive stock.

Further, captive-breeding stocks for recovery of endangered parrots should generally be assembled directly from the wild populations or from stocks held in closed single-species facilities with good records of disease prevention, and should not be formed from stocks that have been held in open multispecies facilities.

Finally, APC emphasizes the importance of state-of-the-art disease screening for all birds used in captive-breeding for recovery purposes, even though such screening cannot be expected to reveal the presence of all diseases of importance.

Observing these standards is often expensive but should be recognized as one of the inherent costs of comprehensive captive breeding conducted for recovery purposes. The consequences of not observing such precautions include enhanced risks of permanent establishment of new disease stress factors in already threatened wild populations and, in some cases, extinction or near-extinction of wild populations (see Jacobson 1993; Woodford and Rossiter 1994).

(5) Managing genetic and behavioral changes. When captive populations are established for conservation and recovery purposes, the preservation of extant genetic variation and species-typical behavior assume paramount importance. Over the past decade, considerable attention has been given to the preservation of genetic diversity in small populations; much less attention has been given to the preservation of species-typical behavioral traits. Modern, conservation-oriented breeding programs must attempt to ameliorate the genetic effects of inbreeding, drift, and adaptation to the captive environment through the deliberate and careful control of reproduction, population size, population demography (Foose and Ballou 1988, Lacy 1987, Allendorf 1993). This is a difficult task, however, given (1) the practical limitations of population size and controlling reproduction; (2) the dynamic nature of evolutionary forces in small populations; (3) the types of genetic variation to be maintained; and (4) the uncertain nature of selection in the captive environment (see Lande 1988, Simberloff 1988). In low-fecundity taxa, like parrots, careful pedigree breeding and equalizing progeny number can minimize genetic drift and adaptation to captivity (Allendorf 1993). It should be noted, however, the some breeding programs for endangered parrots have failed to secure consistent reproduction or equalize progeny numbers even after years of effort.

Behavioral traits, especially those that are learned or culturally transmitted, are prone to rapid loss in captivity. The behavioral repertoires of many parrot species seem to include learned components, and problems with behavioral deficiencies have already been encountered in attempts to reintroduce captive-bred individuals of several species to the wild (see Wiley et al., 1992, Snyder et al., 1994). Because the non-genetic transmission of information across generations appears to be essential for the survival of wild populations of some highly social species such as parrots (Toft 1994), breeding programs for reintroduction must focus careful attention on behavioral management in the captive environment. Clearly, this aspect of captive management deserves much more scientific investigation than it has received, and will have to be completed on a species-by-species basis.

(6) Problems in ensuring continuity of programs. Captive breeding represents a relatively unstable and input-intensive approach to conservation that is difficult to sustain over the lengths of time needed for recovery of endangered species. Changes in personnel and institutional priorities can frequently leave long-term programs without adequate support and

expertise. Likewise, overall changes in economic health of organizations can lead to mid-stream abandonment of programs. Of course, problems with continuity are not unique to captive breeding programs, and can affect complex *in situ* conservation efforts as well.

(7) Preemption of other, better techniques. Another significant limitations of captive breeding is that is can preempt attention and resources from better, long-term conservation solutions. The existence of a captive population can give the impression that the species is "safe" and allow agencies to ignore long-term solutions that are often more difficult politically, though much more effective and beneficial biologically.

When is Captive Breeding Advantageous in Species Recovery?

Because of the risks and limitations of the technique, APC believes that captive breeding should be invoked as a species recovery approach under carefully defined circumstances. The decision to start captive breeding for this purpose should be made only on a case-by-case basis and only following a comprehensive evaluation of conservation alternatives at the field level. It should not be made simply because some individuals are already in captivity and numbers of the species seem relatively low. Further, it should not be made when resources to conduct captive breeding comprehensively and humanely are unavailable.

In general, captive breeding can be justified as a desirable conservation approach when (1) species are so rapidly approaching extinction that they cannot be expected to survive without intensive intervention of some sort and either effective conservation alternatives are clearly unavailable in the short term or sufficient time to investigate alternatives does not exist, or (2) all or nearly all individuals of a species are already in captivity and it is deemed worthwhile to attempt to reestablishment of the wild populations, or (3) other conditions prevail that make captive breeding and reintroduction absolutely essential for preservation of the species in the wild.

When captive breeding should begin for species in rapid decline is often a point of vigorous controversy. Clearly, waiting too long before starting will risk genetic deterioration and potential failure in developing adequate husbandry techniques, especially if technology for captive breeding of the species or closely related species has not previously been researched. However, starting too soon can represent unnecessary expense, accentuate genetic and behavioral management problems, and focus resources in unproductive directions, preempting other approaches that can offer potentials for more stable, long-term benefits. Population trends are often far more important than absolute numbers in making decisions as to whether and when captive breeding is warranted. Steeply declining species are cause for special concern, and care needs to be taken not to wait too long in establishing captive populations if effective alternatives are unavailable. In making such decisions, it is important to recognize the difference between ephemeral short-term population fluctuations and pervasive long-term population trends.

APC does not endorse captive breeding programs for species recovery that are independent of efforts to develop alternative, long-term conservation solutions for wild populations. In general, APC urges that wild populations be sustained at the time captive populations are established so that research into limiting factors can take place and problems in the wild can be identified and corrected, and so that reintroductions of captives to the wild can enjoy the advantages of linkage with wild populations.

Finally, APC believes that captive breeding efforts for species recovery should proceed only when endorsed by the governments of the countries involved and should observe the precautions specified in the preceding sections.

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POSITION STATEMENT

SUSTAINABLE USE AND TRADE OF BIRDS

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ASSOCIATION FOR PARROT CONSERVATION

POSITION STATEMENT

SUSTAINABLE USE AND TRADE OF BIRDS

written by

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PURPOSE

The harvest of birds from the wild for national and international trade is an important cause of population declines for many species. International and national regulations have been unable to control this multi-million dollar trade, which increasingly threatens the existence of wild bird populations and entire species. The situation has reached a crisis proportion for many species and an immediate change in the management of international trade is needed. Yet harvest for trade, if done properly, has the potential to be a source of revenue for local peoples and nations, and could lead to habitat conservation. In this document, the Association for Parrot Conservation (APC) outlines why the international trade in birds must be temporary halted and lays the biological foundation for achieving a trade in wild birds that does not threaten wild populations, is sustainable, and can lead to conservation of wild birds and their habitats.

DIMENSIONS OF THE PROBLEM

In recent years, international and national (internal or nonexport) trade in birds for pets and aviculture has grown greatly. Estimates of the current annual magnitude of the international trade in live birds range from two to five million individuals. Accurate data on the scale of internal trade in birds are not available, although this trade is also thought to be substantial in many countries. Finches from Africa and parrots from around the world compose the bulk of the individuals traded.

Parrots represent the largest monetary share of commerce. The United States has accounted for 47% of all parrots sold internationally, and perhaps 80% of the trade in Neotropical parrots, followed by the European Economic Community and Japan. Approximately 1.8 million Neotropical psittacines, nearly all captured from the wild, were legally exported for trade from 1982 to 1988. The actual numbers taken from the wild for commercial activities were probably several times as large, when internal trade, illegal export (e.g., 150,000 parrots per year are smuggled through Mexico), and high mortality rates of birds harvested from the wild (e.g., 60% may die in Mexico before exportation) are considered. The retail monetary value of the 1.8 million parrots legally exported during this period has been estimated at $1.6 billion.

This multi-million dollar trade increasingly threatens the existence of wild bird populations and even entire species. Although nearly all exporting countries are members of the Convention on International Trade in Endangered Flora and Fauna (CITES), and many exporting

countries have adopted trade regulations, the domestic and international laws which are supposed to ensure that trapping for trade does not result in species declines have been largely ineffective. Harvest quotas have been adopted in many countries, but they are not based on scientific data and there have been no adequate biological studies to determine what levels of harvest would be sustainable.

Principle problems from the trade of birds have been seen with parrots, which as a group are unable to sustain much pressure on wild populations. At least 42 of approximately 140 species of Neotropical parrots are currently at risk of extinction. For 22 of these species, trade is a major cause of endangerment. Examples of parrots now critically threatened by trade include the Spix's Macaw (*Cyanopsitta spixii*), the Hyacinth Macaw (*Anodorhynchus hyacinthinus*), the Tucuman Amazon (*Amazona tucumana*), the Red-tailed Amazon (*A. brasiliensis*), and the Red-crowned Amazon (*A. viridigenalis*). Together, trade and habitat destruction now clearly represent the two major conservation problems afflicting parrots and many kinds of birds worldwide.

Little is known about how trade is affecting most nonendangered species in part because there are no species for which quotas have been set based on scientific information. However, if the Blue-fronted Amazon (Amazona aestiva) is any indication, trade is probably having a strong effect even on many common species. Over 45,000 Blue-fronted Amazons were exported from Argentina from 1982 to 1986. It is inconceivable that this species can continue to sustain such harvest levels, as evidenced by its disappearance from many areas of its range. Trade may be as large a threat to nonendangered psittacines as habitat destruction, because many parrots are habitat generalists. This is exemplified by the large number of parrot species that have been introduced, as a result of the pet trade, and become established in urban habitats around the world. In addition, the harvest of nestlings of hole-nesting species often involves destruction of nest trees, posing a further stress on wild populations limited by nest site availability.

Captive breeding is the major source of individuals in trade for only a relatively few bird species -- Budgerigars (*Melopsittacus undulatus*), Cockatiels (*Nymphicus hollandicus*), Canaries (*Serinus canaria*), Zebra and Bengalese Finches (*Amandava subflava* and *Lonchura domestica*), most *Agapornis* lovebirds, several species of grass parrots (*Neophema* sp.) and rosellas (*Platycercus* sp.), and several Australian finches (e.g., *Chloebia gouldiae, Poephila cincta, Poephila acuticauda*). For most other birds, essentially all individuals in trade come directly from wild sources, either trapped as free-flying adults or taken as nestlings.

Despite the obvious threats to wild populations of many species posed by trade as it is currently conducted, little has been done by the international community to decrease the number of birds being removed from the wild. One notable exception is recent legislation enacted by the United States. The Exotic Wild Bird Conservation Act of 1992 prohibits the importation of birds that are listed on CITES appendices unless they originated from licensed captive-breeding facilities or sustainable-harvesting programs. In the first year since this legislation went into effect, the number of parrots and the total number of wild birds legally imported into the United States declined greatly, although exact figures are not yet available. It is not known, however, whether the number of birds illegally imported has increased.

A FIVE YEAR MORATORIUM ON THE TRADE OF LIVE BIRDS IS NEEDED

On the basis of the situation summarized above, APC believes that the harvest of birds for national and international trade is not currently being conducted in a sustainable manner. *Because the exploitation of live birds and their shipment around the world has had severe impacts on many wild populations in countries of origin, APC believes that there is no rational choice but to halt or greatly decrease the international and national trade in parrots and other birds until evidence can be presented that such trade in any species can be constituted in a sustainable manner.* If trade in live birds is to continue, trade practices must be changed, and the removal of birds from the wild must be dramatically decreased. It is unlikely that the trade can be made sustainable in the face of the great pressure exerted by the current climate of unsustainable use. Under such conditions, most attempts at sustainable harvesting are likely to fail.

APC recommends a **moratorium** on the international trade of wild-caught birds for a five year period. A moratorium is recommended because it is the most sensible stance in terms of its potentials for immediately reducing the detrimental effects of the trade on wild populations, its simplicity and effectiveness of regulations, and its cost effectiveness. At the end of the moratorium, trade could be reopened for selected species when it can be shown that harvesting is sustainable. Obtaining the biological and sociological data to conduct a sustainable trade will require large investments of time and money, but trade should not have been allowed in the first place without this information.

A five year moratorium would be long enough to permit overexploited bird populations to begin to recover and would allow time for important conservation programs to be enacted. An international campaign could be begun to pass legislation like the Wild Bird Conservation Act in the European Economic Community, Japan, and other countries. Education programs about the implications of keeping parrots and other birds as pets could be implemented to reduce the demand for wild birds both in importing and exporting countries. Research programs to document the status, basic natural history, and population dynamics of exploited species could be initiated. Experimental ranching programs could be run in selected exporting countries to find solutions to poaching, illegal laundering of birds, and other associated problems. In our view, a moratorium would be held open for limited importations of birds as part of internationally recognized scientific studies of birds in captivity, recovery efforts, or public exhibitions for educational purposes. A moratorium for five years would signal that business can not continue as usual, but that business could continue if the trade could be made sustainable. It would provide impetus to the users of birds, the harvesters and importers, to take the steps needed to make a trade in birds sustainable, which would not be a trivial undertaking.

APC realizes that the issues relating to the governance of the international and national trade are complex, and that biological, political, social, and economic factors each affect the conditions under which trade has been or should be implemented. But because a moratorium or a trade ban alone is unlikely to slow the high rate of habitat destruction that threatens parrots and other forms of biological diversity, policy should be enacted in such a way that it will encourage future harvesting schemes if they can be demonstrated to be truly sustainable.

In the remainder of this policy statement, APC presents general principles that should guide the harvest and trade of birds, discusses the potential benefits and difficulties of enacting sustainable use of birds, and presents a vision of how the trade could be re-created for both commercial and conservation purposes.

PRINCIPLES FOR GUIDING THE SUSTAINABLE HARVEST AND TRADE OF BIRDS

APC strongly advocates the use of seven general principles developed by The American Ornithologists' Union to guide trade in birds. The seven principles focus primarily on the implications for conserving wild bird populations in the countries of origin as well as in importing countries. APC's approach to trade and sustainable use of parrots is based on these principles:

1. *The harvest and importation of live birds should be sustainable, and should not pose risks for wild populations of species that are harvested.* There is no justification for commercial endeavors to result in the extinction in the wild of a species, as has been the case for several parrots as the trade is currently practiced. Although CITES provides some protection for a small set of species listed in its Appendix I, even some of these have been imported in significant numbers relative to wild population sizes (e.g., the Hyacinth Macaw). If trade in wild birds is to continue, it must be done on a sustainable basis. In other words, trade must be implemented in such a way that it does not pose threats to wild populations. Export quotas for some countries need to be lowered drastically. Important biological information is needed to determine what levels of harvest would be sustainable. This information has not been gathered for any species in the trade. Biological data suggest that there is a potential to harvest some parrots in a sustainable manner through the use of nest boxes to increase productivity, although no "ranching" projects with free-flying birds have been attempted to date. Because most parrots have low reproductive potential and long life spans, they are susceptible to overharvesting and conservative approaches to harvesting should be used. These include harvesting only nestlings and not adults, and harvesting primarily nestlings that are produced in excess of natural productivity as a result of management programs. Maximizing nestling harvest levels requires managing to maximize the number of pairs of birds nesting, which in theory would result in robust populations close to the carrying capacity of the environment. However, careful evaluations of the biological, social and economic problems of ranching programs must be conducted before such programs are encouraged or discouraged. Finally, there is no reason that any of the 1100 bird species listed by IUCN as threatened with extinction should be traded for commercial purposes.

2. *The harvest and importation of live birds should not pose significant risks of disease transmission to native species, poultry, or other birds held for legitimate purposes such as exhibition or scientific study.* Quarantine regulations around the world are, for the most part, unlikely to stop the importation of diseases that potentially threaten native species and poultry. For example, all birds imported to the United States are held for 30 days of USDA-regulated quarantine and tested only for Exotic Newcastle Disease (VVND). This period is too brief to allow the detection of other slow acting pathogens, many of which have recently been imported into collections of captive birds and potentially could be transferred to native species. Difficulties with this one disease alone, which caused a massive loss to the U.S. poultry industry in 1972 and continues to strike periodically since then, suggests that enormous economic losses

may occur if the worldwide shipments of birds continues and current quarantine regulations are not changed. Quarantine procedures must include much longer quarantine periods and testing for many more diseases. The massive extinctions of native Hawaiian birds, caused in part by diseases to which many species had no prior exposure, exemplify the potentials of exotic diseases to have tragic consequences.

3. *The importation of live birds should not result in significant potentials for the establishment of feral populations.* Uncontrolled experiments in introductions of exotic bird species are already underway around the world as a result of continued international trade. Large numbers of exotic birds establishing themselves, so far mostly in urban environments but perhaps eventually spreading to natural ecosystems, may cause native populations to decline or could become serious pests. International trade should be prohibited for species with good colonizing abilities that are proven pests, like the Monk Parakeet (*Myiopsitta monachus*).

4. *The harvest, exportation, and importation of live birds should be consistent with national policies concerning the use of native species.* To be ethically consistent, the trade in live birds should be regulated by nations in the same manner that they regulate commercial uses of native wildlife. Some exporting countries have no clear set of laws for the use of native wildlife. Others choose to regulate the use of valuable species such as parrots as pest species so they can set very high harvest quotas, even though they prohibit commercial use of less valuable species. For importing countries, another kind of dilemma exists. Most prohibit commercial uses of native bird species. Legal forms of utilization of wild birds, for example sport hunting and falconry, are usually carefully regulated, require licenses, and require that wild populations of game birds or raptors be managed in a sustainable manner. Exotic birds have been largely exempt from such regulations until the passage in the U.S. of the Wild Bird Conservation Act of 1992. So although it is illegal to market or hold native bird species, except under permit, it is quite legal to practice these same activities with most nonnative birds without a permit. Both situations pose unfortunate ethical inconsistencies in the treatment of wildlife species.

5. *The trade of live birds should be governed by regulations that are economically feasible, practically enforceable, simple, and effective. Regulations should not preclude scientific studies of birds in captivity, international recovery efforts, or public exhibitions for educational purposes.* Complicated regulations imply complicated bureaucracies and significant expense, and are susceptible to failure because of underfunding and difficulties in addressing complexities. Simplicity in regulations is an important goal. Enforcing trade regulations that allow harvest and importation of wild-caught birds would require the development of adequate marking systems to detect the laundering of illegal birds through captive breeding or ranching programs, and to detect smuggled birds. Presently no marking system is completely reliable. More resources must be invested in enforcing any legislation, including stronger fines and sentences for convicted smugglers, if legislation is to effectively deter current widespread smuggling. Practically enforceable harvest regulations are necessary as the cornerstone of any system of sustainable use.

6. *Captive breeding of exotic species for aviculture should be self-sustaining (i.e., without requiring the continued importation of wild-caught birds) and be conducted humanely.* The importation of wild birds for commercial aviculture had been fueled in part because it was often less expensive for aviculturists to import adult wild-caught birds than to buy captive-reared birds. Aviculturists do not need continued access to wild birds for captive breeding stock because all

species of commercial importance are already represented in sufficient numbers in captivity to constitute a viable gene pool under active, cooperative management (30 to 50 birds per species). Species with fewer individuals in captivity are obviously not of commercial importance. Instead of supplementing captive birds with wild imports, private aviculturists must begin to adjust their practices toward the goal of self-sustaining captive populations, including better coordination of studbooks and the development of cooperative programs to maintain genetically viable captive gene pools. Humane care of captive birds, from the transporting and holding of birds in export and import centers (e.g., quarantine facilities) to the housing of birds in commercial breeding facilities, must be a priority.

7. *Captive breeding of exotic birds as a conservation strategy should be pursued only as a last resort, and only as part of internationally recognized and structured programs.* The promotion of captive breeding as conservation by aviculturists is sometimes a rationalization for keeping exotic birds in captivity in private collections. Captive breeding for conservation should be fully integrated with preservation and reintroduction efforts, conducted within the native range of the species whenever possible, and internationally coordinated. Aviculturists committed to conservation could play a significant role in future reintroduction programs if adequate control over disease threats can be achieved, and the ownership and control of birds is given up to a central authority. However, many problems are associated with the use of captive breeding for conservation, as detailed in the APC position paper on this topic, so this technique should be used with great discretion.

THE POTENTIAL BENEFITS OF TRADE ARE GREAT BUT DIFFICULT TO ACHIEVE

If it is implemented properly and conservatively, sustainable harvesting may provide advantages for conservationists, aviculturists, the pet industry, and local peoples. Conservationists could gain by having healthy populations of wild parrots, and by transmitting economic value to habitats to help conserve them in their natural states. This would benefit a broad array of plant and animal species besides parrots. For example, if parrots can be sustainably harvested from tropical rain forests, this would provide another commodity which might help to make extractive reserves more economically valuable than forest land cleared for timber harvest or cattle production. Sustained harvesting of many species of parrots will require that substantial areas of land be maintained as mature forest. Aviculturists could purchase new genetic stock for their breeding programs from birds harvested sustainably, although cooperative management programs could accomplish the same thing for nearly all species currently in captivity. The pet industry would have a steady but small inflow of legally imported birds already conditioned to captivity. Finally, the profits from these programs could be directed to the local people in need of ways to support themselves, and the economy of nations that are trying to develop.

Realizing the benefits of trade requires a degree of control over harvesting that is difficult and expensive to achieve. Solving the biological problems associated with sustained harvest of birds may be easier than solving some of the social and political problems. Particular problems for sustainable harvesting programs are posed by the illegal laundering of birds by personnel in these programs, poaching of birds by people outside of these program, the development of reliable marking systems to identify legal birds, and the temptation to overharvest to make more profit. Without strong controls over harvesting programs that are enforced, attempts at sustained harvesting could increase conservation problems rather than solve them.

RE-CREATING A BIRD TRADE THAT CONSERVES SPECIES AND ECOSYSTEMS

If there is to be a trade in parrots, it must be conducted on a sustainable basis. There is, however, no single definition of what constitutes sustainable use. A commonly accepted biological basis for sustainable use of renewal resources is that harvest levels must not exceed the number of individuals needed to replenish the population and should not have negative effects on other components of the ecosystem. The only way to determine what harvest levels are sustainable is to conduct detailed biological studies of the natural history, demography, movements, and population size and trends of the species to be harvested over a number of years. Quotas set by any other method will have little if any biological justification. Species with low numbers locally or globally are not candidates for sustainable use, despite their high economic value, until their populations can be recovered. It is impossible to set valid quotas for export if the size of the nonexport (internal) trade remains unknown. Thus, future studies of the degree of harvest for in-country markets are needed in many countries.

Strong hopes should not be placed in sustained harvesting as a conservation strategy until several demonstration projects can determine the feasibility and scale of harvesting. Experimental programs of sustained harvesting must be run to find solutions to the problems of illegal laundering of birds, poaching, reliable marking systems, and overharvesting. Serious funds will need to be allocated to enforce harvest and trade regulations in both exporting and importing countries. Enforcement of regulations must occur before exploiters will take harvest regulations seriously. Harvesting is unlikely to be sustainable unless all of the conditions discussed above can be satisfied.

National and international regulation of harvest and trade must shift from the use of national quotas to local harvest quotas based on scientific management plans. Using national quotas to regulate harvests does not tie harvest levels into local conditions and provides no impetus for ecosystem conservation. Harvesting of parrots is often done for extra income by campesinos, who do not own the land, or poachers. The landowners (public or private) are missing actors in the parrot trade and have no motivation for preserving wildlife as a source of income. The process leads to the "tragedy of the commons" - parrots are overexploited because they are viewed as nobody's property and their use is not locally regulated. The "middlemen", buyers and importers who have profited most from the bird trade, do not make investments to ensure the sustainability of the parrot trade in the region. Instead, they behave opportunistically and move to less exploited areas, or shift to other species according to availability and international prices. Thus, using national quotas to regulate harvests benefits most those economic interests that lie outside of the region and that lack any commitment to sustaining the birds or their habitats. Instead, harvest quotas must be developed on a site-by-site basis, such as for a particular ranch or management area. Local harvest quotas would directly connect harvest levels to local parrot population changes and habitat conditions.

Two important components of the international trade also need to be improved - quarantine testing for diseases and the treatment birds in captivity. Quarantine in most countries is not very effective because few diseases are monitored over a short period of time. With the global movement of birds in the international trade, it is only a matter of when, not if, an exotic disease outbreak will occur. Quarantine procedures should include testing for more diseases over

a longer period of time. However, many birds die before they are shipped, although survivorship during shipping has improved in recent years. Mortality must be lowered in countries of origin during the holding period. This can be acheived by better regulations for the care and holding of birds to be exported, and by educating all involved in harvesting and holding birds.

In conclusion, sustained harvesting can only achieve its purpose if robust bird populations and habitat preservation result. Sustainable harvesting of parrots and other birds cannot contribute to species or habitat conservation unless sound scientific information is available, methods to regulate harvesting and trade are developed and enforced, and a diverse set of sustainably-managed products are harvested simultaneously.

ADDITIONAL READING

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WILD BIRD CONSERVATION ACT
OVERSIGHT HEARINGS

September 28, 1995

Subcommittee on Fisheries, Wildlife and Oceans
U.S. House of Representatives

Testimony of Frank M. Bond, General Counsel
North American Falconers Association

Mr. Chairman and members of the Committee, I appreciate the opportunity to present testimony this morning. I am Frank M. Bond, and I serve as General Counsel for the North American Falconers Association ("NAFA"). I appear today on behalf of NAFA's President, Dr. Ken Felix, and its 2,600 members in the United States and throughout the world. For the most part, my testimony will focus on the application of the Wild Bird Conservation Act ("WBCA") to birds of prey, frequently referred to as raptors.

Anyone who deals with birds of prey are subjected to the regulations promulgated under the authority of the Migratory Bird Treaty Act. The falconry community of the United States in licensed through a federal and state permitting process under 50 CFR 21.28, 21.29 and 22.24, and for our members, and for others who are also captive propagators, they must comply with the standards of 50 CFR 21.30. These regulations do not distinguish markedly among wild harvested and captively propagated birds. Further, with certain species of raptors the full force of the Endangered Species Act ("ESA") applies, and finally for import and export of raptors, the Convention on International Trade in Endangered Species ("C.I.T.E.S.") and its attendant regulations control all movement. The regulatory burden imposed by these laws on raptors is staggering.

The stated purposes of the WBCA are to promote conservation of exotic (non-U.S.) species of birds by: (1) ensuring that all imports into the United States of species of exotic birds

are biologically sustainable and not detrimental to the species; (2) ensuring that imported birds are not subject to inhumane treatment during capture and transport; and (3) assisting conservation and management programs in the countries of origin. These purpose may be noble as they apply to some species of birds, but they do not apply to raptors, because birds of prey cannot be imported for "pet" purposes. U.S. citizens and organizations may only hold raptors for conservation, propagation, falconry, education and rehabilitation purposes. And every one of these purposes is regulated.

Our recommendation to this Committee is to exempt all Falconiformes from the WBCA. Falconiformes should be added to that relatively small list of birds for which it was determined previously that the WBCA served no useful purpose. At the very least, proven captive bred Falconiformes should be exempted from the provisions because captive bred raptors are not part of any wild population.

In support of the request for exemption of Falconiformes, the purposes of the WBCA do not appropriately apply for the following reasons:

1. Raptors have been internationally imported and exported in small numbers for falconry purposes for thousands of years. More recently, some birds are imported and exported for captive propagation purposes with the goal of conservation and falconry. To our knowledge, there is not a single incident of this activity being detrimental to any species of raptor anywhere in the world. Frankly, evidence demonstrates that there have

not been any significant increase in the import and export of raptors for any purpose.

2. Raptors captured from the wild or bred in captivity for falconry purposes, and subsequently imported or exported, are captured and transported with the same humane techniques employed for banding and specimen collection. In fact, the techniques developed by falconers later were adopted by the scientific and conservation community. To be of any value for falconry or captive propagation, raptors must be maintained in nearly perfect physical and emotional condition. Therefore, proper care and handling during capture and transport is foremost. Further, to transport birds of prey internationally by air, a raptor must be shipped individually in a specially constructed container prescribed in Container Requirement 20 by the International Air Transport Association and it must be accompanied by a health certificate issued by a governmental authority from the country of origin.

3. Falconers and falconry techniques have been the cornerstone of raptor conservation efforts throughout the world. We point with pride at our efforts in the recovery of the Peregrine Falcon, now being considered for delisting from the Endangered Species List. To be a falconer or a raptor propagator, an individual must meet a series of very strict standards for knowledge and maintenance facilities. These standards are in place at our

request to ensure that only competent and dedicated individuals are issued permits. We insist that the welfare of these birds be placed above all other concerns.

The U.S. Fish and Wildlife Service has issued several cooperative captive breeding permits to raptor propagators which are required under WBCA. Some people here today may argue that the problems for captive propagators of raptors are taken care of by the issuance of cooperative program permits. I assume that it has been an administrative burden for the Service to complete such propagation program requests. For those who breed many raptors in captivity, it has been yet another regulatory burden without any perceived benefit. In fact, it is simply another stumbling block which actually inhibits the work of several conservation programs. I believe that Service recognizes the problem, but the WBCA demands that more unnecessary paperwork be completed for birds of prey.

If the WBCA is ever going to benefit any wild populations of birds, then it must be much better focused on very specialized problems. Those problems need to be defined and understood completely by the people who are going to administer the WBCA. All families or species of birds which will not benefit from the system developed under the WBCA should be specifically exempted. For the reasons stated above, Falconiformes should be exempted, because wild populations are now protected, international movement is strictly controlled, and people who handle raptors for any purpose are closely regulated.

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BEFORE THE
SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS
OF THE
COMMITTEE ON RESOURCES

STATEMENT OF MARSHALL MEYERS ON BEHALF OF THE PET INDUSTRY JOINT ADVISORY COUNCIL CONCERNING THE WILD BIRD CONSERVATION ACT OF 1992 P.L. 102-440

SEPTEMBER 28, 1995

Communication with respect to this
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BEFORE THE
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SEPTEMBER 28, 1995

Mr. Chairman, and members of the Subcommittee, I am Marshall Meyers, Executive Vice President and General Counsel of the Pet Industry Joint Advisory Council (PIJAC). I appreciate the opportunity to testify on the implementation, or lack thereof, of the Wild Bird Conservation Act of 1992 (WBCA).

PIJAC has been involved with this issue since its genesis some eight years ago. PIJAC has been, and remains, supportive of the underlying intent of the WBCA. Unfortunately, however, several of PIJAC's reservations expressed during the original Congressional deliberations have become a reality. At the same time, PIJAC remains actively involved in the Department's implementation process as regulations needed to implement the Act languish in the recesses of the Fish and Wildlife Service.

Despite these implementation problems, PIJAC remains hopeful that the WBCA can become an effective conservation tool. The future success of the WBCA, however, will require several amendments and far greater Congressional oversight than has existed during the past three years.

If the WBCA is to meet its objectives, certain amendments, not repeal, are required. PIJAC respectfully urges the Committee to consider the following:

1. Amend Section 113 to carry out the original Congressional intent that CITES Appendix III birds are not covered by the WBCA except for those birds located in the listing country.

2. Reauthorize the WBCA with recommendations for adequate funding to properly implement and enforce the Act.

3. Direct the Secretary to fully implement the WBCA by expeditiously promulgating user-friendly, reasonable, and workable regulations with respect to approval of foreign captive breeding facilities and foreign sustainable-use conservation programs.

4. Amend Sections 106 and 107 of the WBCA to ensure that captive bred exotic birds may be freely imported into the United States pursuant to regulations which contain incentives, not disincentives.

5. Amend Section 112(4), to exempt progeny of approved U.S. cooperative breeding programs from any tracking requirements.

6. Periodically convene Congressional oversight hearings, at least annually, until the Committee is satisfied that the WBCA has been properly implemented.

It should be emphasized that PIJAC is not asking Congress to rewrite the proposed FWS regulations. Rather, we are requesting that the original Congressional intent be made clear to insure that the final regulations do not contravene this intent. Minor legislative modifications to the WBCA are required.

While we are sensitive to the fact that the Congress authorized $5,000,000 annually for fiscal years 1993 through 1995, far less has been actually appropriated. Moreover, the Administration, to the best of our knowledge, has not requested appropriations the past two years. Thus, implementation takes a back-seat to other programs; foreign assistance as contemplated by Section 114 (16 U.S.C. 4913) is meaningless; and exporting countries remain bewildered why the equally concerned European Union continues to work with them to import wild-caught birds while gathering data and implementing conservation management programs. At this point, the United States remains isolated in its inability or unwillingness to adequately address the issues presented.

Passage of the WBCA was the result of a significant compromise among a number of varied interest groups. Rather than adopting an outright ban on imports, we thought that the Congress elected instead to continue its support of sustainable utilization by including in the WBCA specific provisions that allow for importation of captive-bred as well as wild-caught CITES listed species. Accordingly, the WBCA was designed to promote conservation of exotic birds by:

1. Ensuring that all imports into the United States are biologically sustainable and not detrimental to the species.
2. Ensuring that imported birds are not subjected to inhumane treatment during capture and transport.

3. Assisting wild bird conservation and management programs in foreign countries.
4. Encouraging and promoting captive breeding.

Three years after enactment, the pet industry, aviculture, and others supportive of sustainable use programs anxiously await implementation of key portions of the WBCA that would facilitate importation of captive-bred birds and wild-caught birds harvested pursuant to U.S.-approved foreign conservation management programs. While it may have been the intent of Congress that the WBCA would accomplish these laudable goals, it appears that the Service's actions reflect a far different intent. The proposed regulations governing approval of foreign captive breeding facilities and foreign sustainable-use conservation export programs are so restrictive and burdensome as to promote disincentives, not incentives, for engaging in any of the activities contemplated by the Congress.

No foreign captive breeder, no foreign government, and no U.S. importer will make any substantial investments in light of the high probability of denial by FWS as well as the risk of running afoul of aggressive FWS anti-wildlife-use law enforcement in the FWS. The risk is simply too great.

The impact of the WBCA on the commercial pet bird industry has been and continues to be significant.[1] It has destroyed the import industry and adversely affected the supply of birds, both captive bred and wild-caught. Prior to enactment, the avian import program consisted of approximately 30 to 40 active importers responsible for importing slightly more than 320,000 birds for pets, captive breeding, zoological display, and re-export. For FY 95, USDA reports that only 55,166 birds have been received in U.S. quarantine facilities. Following enactment of the WBCA, only 6 to 7 active importers remain. Part of this attrition is directly related to economic conditions, shifting consumer preferences, increased domestic breeding of the larger Pssitacine species, not the WBCA. As the import industry is further decimated, importation will become more than simply "difficult" for cooperative breeding programs, captive-bred birds, and the few wild-caught birds allowed access to U.S. markets.

. What has the WBCA actually accomplished?

1. An inability of foreign captive breeders to obtain U.S. approval of their breeding facilities;
2. An inability of foreign governments to gain U.S. approval of their avian sustainable use conservation programs;
3. A failure to attain funding necessary to implement the act;
4. A failure to provide foreign assistance to those countries seeking to implement U.S. approved conservation programs; and

[1] The commercial industry sales of live birds and related products (i.e., feed, cages, toys, medications) approximates $550 million dollars annually.

5. The prohibited importation of all Appendix III birds, species which are not part of the CITES scientific review and listing process.

The Automatic Prohibition of all Appendix III Species is Inappropriate and Section 105(c) Requires Amendment

During Congressional hearings, PIJAC addressed the anomaly of including all Appendix III species under the WBCA. Unlike species listed under Appendices I and II which undergo CITES' scientific review, the listing of an Appendix III species is a unilateral action of a particular CITES Party. When a species is listed under Appendix III, it is not subject to the same level of CITES controls. Such listings are solely for the purpose of assisting the listing nation in implementing its domestic legislation. Such listings are not subject to CITES' review to determine the biological or trade status of the species.

During deliberations, PIJAC urged the Committee to indicate clearly that Appendix III species were not subjected to the same automatic import prohibitions being imposed on other CITES listed species. Our requests were ignored and Committee staff argued that the Legislative History would cure the problem.

However, the FWS interpreted the WBCA to limit its applicability to Appendix III listed species and determined that Appendix III species are considered CITES-listed species under the WBCA only if the birds originated in the country that listed the species. Shortly thereafter, the Humane Society of the United States and Defenders of Wildlife successfully challenged the Service's interpretation in the United States District Court for the District of Columbia. The Court found that the plain language of the Act bars importation of any CITES-listed species. Section 105(c), therefore, should be amended to specifically exclude specimens of Appendix III species from the automatic prohibitions of the WBCA unless they originated in the listing country. Such an amendment would not hold one country hostage to another country's listing.

Approval of Foreign Conservation-based Sustainable Use Programs

In assessing the implementation of the WBCA, the Committee needs to carefully review the regulations being promulgated. While the WBCA could benefit conservation management of wild-caught birds as well as promote captive breeding, the regulations, both final and pending, implementing the WBCA are excessive, regressive and overly restrictive. Furthermore, a number of the proposed rules exceed the authority granted by the enabling statute. They remove any incentive to (1) captive breed birds for export to the United States, or (2) develop management plans for exporting wild-caught birds under the U.S. criteria. The proposed regulations contain requirements not only specifically spelled out in the law, but also a number of additional requirements that, while possibly technically justifiable, reflect the eco-imperialism that is becoming so prominent in American foreign wildlife policy.

Do not be misled by Departmental protestations regarding criticism of the proposed regulations and claims that such criticism is premature. No matter what excuses or cloak the

Department wraps around its actions by characterizing proposed regulations as "tentative," "conceptual," or "ideas" published simply for public comment, the underpinnings of those proposals clearly reveal Departmental philosophy and intent, though it may be modified as a result of public outcry, contempt, and increasing public disdain for intrusive federal government. Later in my testimony I will comment in detail on several aspects of those proposals to highlight concerns raised by PIJAC at various levels of the legislative and regulatory process.

While the proposed regulations contain a perception that the U.S. supports and encourages sustainable development pursuant to conservation management plans, a close reading of the complex, often overbearing criteria, clearly indicates a patronizing, sometimes high-handed, approach that will discourage, not encourage, the desired result. Prohibiting imports to the U.S. will not affect exports to Europe or the Far East. Therefore, the U.S. should consider working with developing countries in the same spirit as the European Union to encourage the development of basic conservation management programs that can be enhanced as the country gains experience. The EU approach involves cooperation, funding, and technical assistance. Moreover, the EU works with exporting countries in the development of acceptable quotas as a means of allowing limited trade to support the program. A total ban while gathering data, as advocated by some staff, sends a far different message and achieves an anti-sustainable use result.

The proposed regulations go farther, however, by mandating what a country must do to implement CITES rather than ask what they are doing. In essence, a sovereign nation must implement CITES "the U.S. way" or such implementation is "inadequate" for purposes of FWS regulations. Furthermore, the criteria set forth in the proposed regulations go well beyond the statute by requiring detailed scientific data rather than allowing the countries the opportunity to provide data they deem relevant to demonstrate that export is non-detrimental to the survival of the species in the wild -- the CITES standard.

For a foreign government's plan to qualify under the proposed regulations, the FWS must --

(1) Determine if the country has established a "functioning" Scientific Authority" (even though the WBCA only requires the establishment of a scientific authority or equivalent);[2]

(2) Pass judgment on whether the country has complied with CITES-recommended "remedial measures" (apparently U.S. judgment can supersede CITES determinations of compliance) -- an indication of an insidious form of eco-imperialism);

(3) Pass judgment on the country's "establishment of legislation and infrastructure necessary to enforce ..." CITES, and the submission of annual reports[3]; and

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[2] WBCA Sections 106 and 107 do not address what constitutes a "functioning Authority."

(4) Evaluate, receive public comment, and approve or deny the country's "scientifically-based management plan" that addresses biological and humane issues.

To qualify a foreign government's conservation management plan as "scientifically-based," an exporting country would have to provide extensive amounts of population, reproduction, nest site, clutch size, nest competition, diet and where the species "forages" (at each life cycle), habitat (at each life cycle) and trade data. The approval process would also require the status, current and future trends for the species, as well as its habitat, including scientific references. Additional information on habitat would also be required.

Population data must be for "at least three separate years or one year with plans for future years." Habitat data must cover the entire range throughout the country (with scientific references and maps), status and trends of important habitats used by the species, management activities relative to the habitat, and a list of management plans "planned, developed, or implemented for the species' important habitats," "information on the role of the species in its ecosystem," incentives for conservation including how utilization "promotes the value of the species and its habitat by means of environmental education, cooperative efforts or projects, development of cooperative management units, and/or activities involving local communities," and a host of other information.

The management plan must provide for conservation of the species at "optimal levels", even for pest species that are, in some instances, being exterminated or subject to rigorous population reduction programs. To be exported in trade, however, the species, however, must be maintained at "optimal" levels. The regulations contain no definition of "optimal" so one is left to the predilections of the FWS reviewer, a person who might be totally opposed to pest management programs.

Most of the information will take many people many years to gather, compile, and report in a fashion that passes U.S. peer review. The proposa[1] clearly reflects the personal positions of several Service staff members that long term studies spanning many years must be submitted and that such studies must meet U.S. perceptions of valid data and scientific methodology. Not every species, especially pest species, warrants such a commitment. Nor do most countries enjoy the luxury of making such commitments. They are not flooded with doctoral candidates in this particular field and clearly do not possess

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[3] Requiring current filing of annual reports as a condition precedent to approving a Section 106 foreign government's management plan or a Section 107 foreign captive breeding facility exceeds any authority contemplated by the WBCA. While the Department is properly concerned about the status of CITES Annual Reports, this is not the appropriate vehicle to "blackmail" non-compliant parties. It is also somewhat hypocritical to require "current" filings inasmuch as the United States' track record leaves a bit to be desired in terms of annual report filings, both in terms of timeliness and accuracy. Sanctions for late or non-filings should be dealt with only in the CITES arena -- the WBCA was not conceived to police CITES member states or to be a CITES' enforcement agent..

the funds necessary to gather all of the data that FWS would require in the proposed regulations.

To qualify the plan, the foreign country would also have to provide a description (including photographs or diagrams) of the "shipping methods and enclosures ... including but not limited to feeding and care during transport, densities of birds in shipping enclosures, and estimated consignment sizes." Interestingly, current CITES resolutions, as well as the Lacey Act regulations (50 C.F.R. Sec. 14.101 et. seq.) require that all imports comply with those import shipping standards, including the International Air Transport Association's Live Animals Regulations. IATA approval would also be conditioned upon satisfying the FWS that the "methods of capture, transport, and maintenance of the species minimize the risk of injury, damage to health, or inhumane treatment."

Meeting these conditions may be practically insurmountable since experience has demonstrated that certain FWS staff members may not believe that such compliance can be achieved under any circumstances; therefore, no plans will be approved. Indeed, some in FWS advocate consignment size limits that make it totally uneconomic to trade (no more than 250 psittacines/500 non-psittacines per shipment or 10 crates per shipment, whichever is smaller). Since the proposal provides no minimum standards or guidance, any standard proposed by an exporting country will be unfairly measured against the reviewer's subjective, not necessarily objective, perception of what is appropriate.

The proposal would also require consideration of the effect trade might have on bird populations in countries other than the country of origin as well as the factors occurring in countries not seeking U.S. approval. This approach goes far beyond what is provided for in the WBCA or its legislative history. This would impose an unreasonable and unnecessary burden on an underdeveloped country to gather data and conduct the required impact analysis on other range states when it will experience sufficient difficulties in providing data with respect to its own country.

The bottom line? Simply that adopting unattainable criteria is nothing more than a smoke screen -- it is an effective ban, not a conservation management tool. Flexibility is required to assist such underdeveloped countries to develop and implement conservation management programs that achieve the intent of the WBCA. PIJAC continues to support the underlining rational on the WBCA but remains opposed to imposition of complex, unattainable criteria on underdeveloped countries or regulatory mechanisms which inherently result in impossible compliance.

Fundamental to the development of such rational and realizable conservation management plans is flexibility, cooperation, reasonableness, and consultation. Unfortunately, the WBCA is void of any reference mandating "consultation." Furthermore, bilateral, not unilateral, consultation and cooperation is essential for the WBCA to meet the Congressional intent. Absent inclusion of such language in the WBCA, it will not occur as a matter of course. PIJAC recommends that the WBCA be

amended to include consultation language similar to that being considered in modifications to the Endangered Species Act.

In summary, while FWS pays lip service to the WBCA, it has crafted Regulations which are totally at odds to the Congressional declaration of intent.

Approval of Captive-Breeding Facilities

The proposed mechanism for approving foreign captive breeding facilities is Orwellian at best and simply ludicrous. No regulation could be better designed as a disincentive for captive breeding than the one proposed here. Moreover, the proposal goes far beyond the enabling statute.

Part of the rationale for the WBCA was the encouragement of captive breeding; the requirements proposed by the Department, however, provide one of the greatest disincentives to captive breeding one could ever devise. The purpose for qualifying such facilities is clearly spelled out in the Congressional history. The Report accompanying the final legislation specifically states that:

> It is the intent of the breeders bill to encourage captive breeding both in the United States and elsewhere. Concern has been expressed that small breeders may wish to ship birds to the United States via larger scale breeders but may be precluded from doing so under this Act. It is not the intent of the Committee to prohibit such transfers, and the Committee believes that the Secretary has sufficient discretion to allow them under this bill. It is also the intent of the Committee that the paperwork burden required of participating captive breeding facilities be minimized, especially as it applies to small facilities that employ few people. (House Report 102-479 (I) at page 18; emphasis supplied).

In short, the proposed regulations are far more than procedural in nature; they contain a number of substantive provisions that go far beyond the enabling legislation and a number of proposals are contrary to Congressional intent. The proposal contains various provisions that are overbearing and impose inappropriate requirements on foreign governments and are totally unwarranted. The proposal hardly encourages captive breeding in foreign facilities, but rather creates an isolationist approach that discriminates against foreign breeders. The proposal, if adopted in its present form, would result in an unnecessarily arduous and cumbersome process adversely affecting not only potential foreign breeding facilities, but also their governments. The end result will thus be to thwart the intent of the legislation.

The proposed regulations would impose on foreign breeders a complex regulatory mechanism requiring an overwhelming degree of regulation and unnecessary detail, not consistent with the purposes of the Act. Such requirements would include.

1. Breeding protocols and genetic management programs.
2. Description of qualifications and experience of the persons caring for the birds.
3. Tracking system to trace captive bird progeny after initial sale.
4. A summary of their nation's legislation implementing CITES.
5. Production and trade data for two calendar years prior to submission of application.
6. Detailed description of facilities and activities.

Furthermore, the United States would impose upon foreign governments a number of requirements as a condition precedent to approving a breeding facility, such as:

1. Implementation of an inspection program.
2. Verification of data, breeding protocols, and ability of facility to produce the projected number of progeny.
3. Certification that the breeding stock was legally acquired.

To avoid such complexity, the WBCA requires amendment to facilitate, not deter captive breeding. PIJAC, therefore, endorses amendment to Section 107 being proposed today by the American Federation of Aviculture.

Thank you very much for providing us this opportunity to testify today. We look forward to working with the Committee in resolving problems associated with implementation of the WBCA.

Adina Rae Freedman, CAE
Executive Director
Central Office

Association of Avian Veterinarians

Advancing and Promoting Avian Medicine and Stewardship

Statement of Susan L. Clubb, DVM, Dip ABVP - Avian Specialty

before

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES
SUBCOMMITTEE ON FISHERIES, WILDLIFE AND OCEANS

SEPTEMBER 28, 1995

Mr. Chairman and members of the subcommittee:

It is a great pleasure to be able to testify before your subcommittee on behalf of the Association of Avian Veterinarians (AAV) in regard to the Wild Bird Conservation Act of 1992 (P.L. 102-440).

I am a veterinarian working almost exclusively with exotic birds. Specifically I currently hold several employment positions which give me insight into the effects of the Wild Bird Conservation Act. I am staff veterinarian for Parrot Jungle and Gardens, a bird park in Miami Florida. I teach a certification training course for pet retailers for the Pet Industry Joint Advisory Council. I do research and product testing for Pretty Bird International, a bird food company. I also consult for a Loro Parque, a bird park in Spain which would like to export captive bred birds to the US. My husband and I own and operate a commercial breeding farm for exotic birds and I have a mobile avicultural veterinary practice.

I represented AAV on the Cooperative Working Group on Bird Trade which originally drafted the Exotic Bird Conservation Act. As you may know this original bill became hotly contested while under consideration by the House Merchant Marine and Fisheries Committee when a second bill was introduced by several animal rights and animal protection groups. The result was the Wild Bird Conservation Act.

The Association of Avian Veterinarians has a very strong conservation ethic as evidenced by our stated purpose. AAV supports conservation projects and organizations with annual grants equal to 1% of our net income. AAV supported the original draft, the Exotic Bird Conservation Act. AAV also supported the passage of the Wild Bird Conservation Act, however at the time of passage had some reservations about some aspects of the act. Some sections of the Act were perceived as very restrictive and others

unnecessary. Since passage of the act however, it is my feeling that the regulations promulgated by the US Fish and Wildlife Service have been excessively restrictive and represent an excessive and unnecessary paperwork burden for those who wish to import birds under the exemptions provided by the act. Publication of some regulations has also been delayed excessively, for example, the Final rule establishing the exemption for sustainable utilization has not yet been published, almost 3 years after passage of the act.

I have several specific areas of concern which I hope will be addressed by the Subcommittee.
First, I am concerned about several specific points in the bill which I feel should be revised. Second I am concerned about the regulations as promulgated by the US Fish and Wildlife Service which are complex, restrictive, and burdensome. Third, I continue to be concerned about the handling of permits by the Service.

I strongly feel that there are several sections of the WBCA which should be revised.

Section 115: Marking and Record Keeping

The regulation, ie marking, of captive birds within the United States provides NO conservation benefit for birds in the wild. I strongly believe that all birds, both pets and avicultural stock, should be marked for health and animal management reasons. On April 10, 1994 numerous aviculturists demonstrated to the US Fish and Wildlife Service that voluntary programs exist and function well. While closed banding is recommended by many if not most aviculturists in the US, many veterinarians still routinely remove bands for safety reasons. While I disagree, I must respect the opinions of my colleagues. Currently, the electronic identification systems available in this country are not compatible and are too expensive for widespread use.

Any system of mandatory marking and reporting would be exorbitantly expensive to implement and maintain. Unless a extraordinary public health or animal health reason existed the expense of such of program could never be justified. For example, the control of Rabies, a major public health concern, requires vaccination and licensing of all dogs and cats. This program is intensively managed on a county basis throughout the US. Despite costly implementation, compliance is generally 50% or less. This marking section of the bill should be removed as it is a point of concern and anxiety for aviculturists, has no conservation benefit and is virtually impossible to implement. It is not a deterent to smuggling and provides no conservation benefit for wild populations.

Regarding Section 107: Qualifying Facilities (for export of captive bred birds to the United States). (b) (6) "All birds exported from the facility are bred at the facility."

This requirement of the WBCA is very restrictive and virtually eliminates the potential for economically viable trade in captive bred birds on a commercial basis. As in any business enterprise, some volume is necessary for trade to be profitable. Most

breeding facilities, throughout the world, are small, family owned facilities. Logically, they would have great difficulty in dealing with exhaustive paperwork required for approval of their facilities. If they could become approved, it is unlikely that they could assemble enough birds to make a shipment financially feasible. Separate approvals are required for each species. Not only must they meet the requirements of WBCA, but they must deal with shipping expenses, quarantine costs as imposed by USDA and must allow a margin of profit for the US dealer. If a foreign dealer could coordinate shipments for a number of approved breeders, and even assist them in the approval process, economically viable trade could occur. Otherwise only the most rare and valuable birds will be traded due to the high costs. This serves NO conservation benefit. If the act is to truly enhance trade in captive bred birds this section should be removed. The Act specifically allows the appropriate foreign governmental authority to certify a facility. This is appropriate and should not require extensive regulation by USFWS.

Legislative history states and I quote "it is the intent of the "bill" to encourage captive breeding both in the United States and elsewhere. Concern has been expressed that the small scale breeders may wish to ship birds to the United States via larger scale breeders, but may be precluded from doing so under this act. It is not the intent of the (Congressional) Committee to prohibit such transfers, and the Committee believes that the Secretary has sufficient discretion to allow them under this bill. It is also the intent of the Committee that the paperwork burden required of participating captive breeding facilities be minimized, especially as it applies to small facilities that employ few people."

My second area of concern is that of oppressive regulation by the USFWS under the auspices of the WBCA. For example in Section 107: Qualifying Facilities - the Act has 6 requirements:

1 The facility has demonstrated the capability of producing captive-bred birds of the species in numbers to be imported into the US from that facility,

2. The facility is operated in a manner that is not detrimental to the survival of the species in the wild.

3. The facility is operated in a humane manner.

4. The appropriate governmental authority of the country in which the facility is located has certified in writing and the Secretary is satisfied, that the facility has the capability of breeding the species in captivity.

5. The country in which the facility is located is a Party to the Convention.

6. All the birds exported from the facility are bred at the facility.

The proposed regulations however required the breeder to make 33 statements, including but certainly not limited to: A summary of legislation implementing CITES in the country,

production levels for the last few years and future anticipated production, a breeding protocol, genetic management plan, details of breeding techniques, number and origin of original stock, statement that the parental stock was established without detriment to the survival of the species and certification that original stock was legally acquired, statement of anticipated augmentation, descriptions or photos of facilities, husbandry practices, veterinary care, records of disease and mortality, qualifications of care takers, record keeping systems, trade data and a statement that enforcement controls are in place in the country to prevent laundering. The secretary must then use 13 points in evaluation of applications. A separate application must be made for each bird. Approval is valid for 2 years.

These regulations have been published ONLY as proposed rules, 3 years post enactment! It is my understanding that the USFWS received in excess of 5000 letters protesting the proposed rules for this section of the Act.

In recent discussions with Mark Phillips of the USFWS, he stated that as of late August 1995, 673 WBCA permit applications have been received and 562 of these have been approved. However, 620 or 92% of these applications were for pet birds of US citizens returning to the US.

Final rules implementing other exemptions under the WBCA have been published, and they are significantly better that the proposed rules. Compliance with the proposed regulations for imports under exemptions for Scientific research, Zoological display and Cooperative Breeding programs and imports was virtually impossible especially for the average citizen. The Final rule was published on November 16, 1993 and many of the almost impossible restrictions were removed, however the final rules is still so oppressive that only 53 total permit applications (7 for scientific research, 27 for zoos, and 19 for cooperative breeding programs and imports) have been received by the service of which only 34 (64%) have been approved. It is my belief that the regulations are so complex that applicants are intimidated, afraid to attempt application. These regulations must be simplified in order to make the act work. Oppressive regulation has NO conservation benefit. The purpose of the act was to limit the massive, unsustainable trade in wild caught birds for pets, not to make imports under the exemptions so difficult.

Sustainable utilization of resources has been widely endorsed by IUCN and other global conservation authorities as the primary means of conservation of those resources. In an age when the worlds human population continues to squeeze wild areas, adding value for the protection of habitat must be paramount. Sustainable utilization of exotic birds is the only logical way that this Act will benefit wild populations. Granted the reduction of imports into the United States has reduced part of the demand on these populations, however, the pressures are still there. Growing human populations, habitat destruction, internal trade and trade to other regions of the world continue unabated. The concept of the US funding conservation programs in other countries sounds good but is illogical in times of fiscal restraints. Despite this, no proposed rules have been published for implementation of this section of the Act - three years post enactment.

My final concern is regarding USFWS handling of permits. I have not personally applied for any permits under WBCA, however over the years I have on many occasions applied for permits from USFWS for a variety of purposes, mostly for export of captive bred birds. I have personally found the Service to be difficult, frequently taking excessive time in permit processing. On permit applications requiring a foreign import permit which is valid for 6 months, the foreign permit frequently expires before a decision is rendered by the Service. The Service "appears" to be distrustful of its foreign counterparts despite the fact that they are Parties to the Convention and duly authorized. I am VERY concerned that this type of handling of other permits will carry over into handling of WBCA permits. I can provide examples upon request. With the complexity of the permitting process, timely handling of WBCA applications seems to be even more difficult.

In closing I would like to reiterate that the Association of Avian Veterinarians and I personally, endorse the purpose and spirit of the Wild Bird Conservation Act. We are committed to the conservation of birds in the wild and to the establishment of species in captivity. We are concerned however about some aspects of the WBCA as outlined above and request consideration of amendment. We are also very concerned by the complex and restrictive regulations of the USFWS, the tardiness of promulgation of regulations for some vitally important sections of the act and their general demeanor in dealing with the public regarding permits.

The subcommittee report should include language which will convey to the USFWS the intent to limit excessive paperwork, to limit regulation to only that which is necessary and to utilize the expertise of foreign CITES authorities in certification of foreign captive breeding facilities.

Mr. Chairman, thank you for inviting me here today. I am happy to answer any questions you may have now or later.

WRITTEN TESTIMONY PRESENTED ON BEHALF OF PRIVATE AVICULTURE OF THE UNITED STATES

For The

SUBCOMMITTEE ON FISHERIES,
WILDLIFE & OCEANS

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES
H1-805 O'NEILL HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

Concerning

The Wild Bird Conservation Act of 1992
P.L. 102-440

WRITTEN TESTIMONY BY

The American Federation of Aviculture, Inc.

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Rick Jordan,
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TESTIMONY BEFORE THE SUBCOMMITTEE PRESENTED BY
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INTRODUCTION

On July 29, 1992, the Report of the House of Representatives on H.R. 5013 was referred jointly to the Committees on Merchant Marine and Fisheries and Ways and Means of the House of Representatives. In that Report on what was to become the Wild Bird Conservation Act of 1992 ("WBCA"), the Honorable Walter B. Jones of North Carolina stated that "It is the intent of the **Breeder's Bill** to encourage captive breeding both in the United States and elsewhere" [emphasis added]. It is the perception of private aviculture that the WBCA, which became P.L. 102-440 on October 23, 1992, has failed that charge from the Congress in several key areas. Prior to addressing these areas, permit us to define ourselves and our position.

Aviculturists in the private sector are generally individuals who have a genuine appreciation for and fascination with birds. They keep, study, breed and raise exotic birds in captivity either as a devoted avocation or commercial activity. The majority of private aviculturists recognize their stewardship responsibilities and are deeply concerned over dwindling wild populations of avian species and are sincerely dedicated to their conservation both in the wild and in captivity. Indeed, the mission statement of the American Federation of Aviculture (AFA) is **"To preserve avian species on a worldwide basis"**. Aviculture has a commitment to establishing self-sustaining populations in captivity as well as habitat preservation and other conservation efforts in countries of origin. Aviculture believes that captive breeding is a valuable asset in conservation strategy by helping reduce demands on wild populations by virtue of making exotic birds readily available from captive-bred sources. Aviculture actively supports avian research resulting in improved knowledge and understanding of avian species. Aviculture is both a conservation and humanitarian effort. Aviculture represents grassroots participation at its best. Aviculture, as a cottage industry, contributes to taxes and the economy without cost to the government.

In this forum, AFA, a non-profit organization, is representing the private aviculture sector. When this testimony was submitted, nearly 300 organizations had joined with AFA's testimony or had requested to be listed as supporting the testimony. Our constituents include people ranging from pet bird owners to commercial exotic bird breeders. Pet birds are represented in 6 to 10% of the households in the United States and the population of pet birds is estimated to be on the order of 14 to 30 million birds. Commercial aviculture exists mainly in the form of many thousands of small businesses but, collectively, the industry is large, on the order of $543.4 million in annual sales.

Aviculture has historically acknowledged that intense pressures have been and are being placed on exotic (non-native to the United States) bird populations by a number of sources. Devastating habitat destruction, hunting for food and feathers and local use as pets, natural predation, planned programs of eradication in countries of origin, smuggling and, prior to WBCA, unregulated trade, were and continue to be grave concerns. While most of these pressures continue (trade with

the United States for most CITES[1]-listed species having been eliminated by the WBCA), aviculture is committed to the concept of sustainable yield, the conservation of exotic birds in their natural habitats and in captivity, and the strict regulation of international trade in wild-caught birds for the pet market.

Aviculture was, in fact, one of the original participants of the Cooperative Working Group on the Bird Trade, organized by World Wildlife Fund. As part of this Group, aviculture formally acknowledged in 1988 the need for a regulated, sustainable trade in and wise use of wild-caught exotic birds in order to make them valuable assets in their countries of origin, and to promote saving them and their habitats. Aviculture also pointed out the need to address concerns regarding planned programs of avian eradication in countries of origin. Certain species of birds are seen not as resources to be used as economic incentives in their range countries but are considered pests to be destroyed.

In 1992, aviculture supported the concept of the WBCA. As part of that Act, aviculture stressed the need to promote, encourage, and facilitate captive breeding of exotic birds in the U.S. and abroad. Aviculture supported the WBCA based, in part, upon the understanding that one **cornerstone would be the free trade in captive-bred exotic birds**. Congress agreed, by enacting P.L. 102-440 which attempted to (1) insure that trade in wild-caught exotic birds involving the United States would be biologically sustainable and not detrimental to wild populations and (2) promote the role of captive breeding or aviculture to supply trade requirements as an alternative to harvest from the wild.

Even now, private aviculture is **not** in favor of repealing the WBCA. Aviculturists believe their stewardship obligation requires that trade in wild-caught birds involving the U.S. should be biologically sustainable and not detrimental to wild populations. It is the position of aviculture, however, that the WBCA has failed to fulfill its promise and the mandate of Congress in a number of significant respects, particularly those relating to population studies in countries of origin and undue regulation of trade in captive-bred exotic birds. Regulation of legitimate captive-bred exotic birds has nothing to do with wild populations of exotic birds. We define specific problems and offer some sensible solutions below.

AVICULTURE'S RECOMMENDATIONS

Trade in Wild-Caught Exotic Birds

The first concern is that the WBCA and Regulations developed by the U.S. Fish and Wildlife Service (USFWS) have resulted in an almost total ban on importation of exotic birds into the United States—even captive-bred birds. The WBCA had two primary goals. The first goal of the WBCA was to insure that trade in wild-caught exotic birds involving the U.S. would be biologically sustainable and not detrimental to wild populations. Congress, in 1992, recognized that well

[1] Convention on International Trade in Endangered Species

designed and comprehensive studies in the countries of origin would be needed to achieve the first goal, and authorized $5 million in fiscal years 1993, 1994, and 1995 for this purpose. To date, only $1 million has been actually appropriated and these funds were for CITES permits and **law enforcement.** There has been **no request** by the Clinton Administration **nor money appropriated** for the WBCA for the past two fiscal years. Thus, the population studies necessary to establish exotic birds as sustainable and valuable assets in their countries of origin are not being conducted. However, trade between these countries and foreign countries other than the U.S. continues to the detriment of the wild populations. The WBCA is clearly failing to achieve its intended conservation role. While the U.S. is no longer a consumer of wild birds, the reversal of its commitment to fund the required population studies leaves the U.S. directly accountable for the ultimate decline and extinction of exotic bird populations. This reversal of stated intent has caused aviculture to have serious doubts as to the real goals of special-interest groups who endorse the WBCA as "an exemplary piece of conservation legislation that places the U.S., formerly the world's largest consumer of wild birds, at the forefront of efforts to conserve these magnificent species". Aviculture disagrees. The only accomplishments have been to mislead the American public and our CITES partners that U.S. aid would be forthcoming and to create a virtual total ban on all CITES exotic bird importation into the U.S. We recommend that Congress:

1. Appropriate the funds authorized or direct USFWS to allocate existing budgetary resources to support and conduct sustainable-use research programs in exotic-bird range countries—studies which incorporate scientifically-sound protocols.

Aviculture concurs with the underlying premise of the WBCA that sound scientific information is required before exotic birds can be safely harvested from the wild for the purpose of trade or any other reason. The requisite information is uniformly lacking, including data necessary to evaluate the presently popular concept of ranching (harvesting so-called excess production resulting from placement of artificial nest boxes). Before any sustainable harvest strategy can be evaluated, studies must be conducted which incorporate the scientific concepts of controls and replication in periods both before and after a management experiment is conducted. Such studies would require significant funding levels and time frames on the order of 6 to 10 years. Few, if any, have been initiated and none of the committed funding has been provided. Thus, the existing ban has no end in sight and the birds and their habitats have, in essence, been abandoned.

2. Conduct an investigation of the actual scope of the smuggling problem involving the U.S. and an investigation of the USFWS enforcement activities.

The only funds appropriated for the WBCA to date have been for law enforcement. The perception that high levels of smuggling are occurring is the justification for these expenditures. In 1987, Thomsen and Hemley (World Wildlife Fund/Traffic, U.S.A.) stated in Bird Trade...Bird Bans that as many as 150,000 parrots

may be smuggled across the Mexico border into the United States every year. In contrast, between 1991 and 1994, it has been reported that a total of only 573 birds were confiscated by the U.S. law enforcement agencies at that border. While it is not suggested that only 573 birds were smuggled in a four year period, there is clearly a huge credibility crisis here.

Aviculture and aviculturists do not support smuggling, laundering or other illegal activities. Aviculturists abhor smuggling. In fact, AFA has produced and furnished to the USFWS a bilingual anti-smuggling poster on parrots for the United States/Mexican border. At the very height of avicultural concerns is that smuggled birds jeopardize the health of avicultural collections with disease.

The USFWS Division of Law Enforcement has told Congress of intensive and expansive enforcement activities. USFWS conducts sting operations and publicizes indictments. Through as little as hearsay or rumor, come undeserved arrests, broad search warrants and unwarranted confiscation of birds (in some cases having led to the deaths of the birds, even rare birds). Many of the resulting charges involve only paperwork or other minor technical violations. Aviculturists are intimidated by such events, even when not directly involved. Certainly, smugglers should be prosecuted, but there appears to be a deliberate effort to expand enforcement to entrap innocent aviculturists and to place a stigma on all aviculture.

Aviculturists would like to work with USFWS to stop the real smuggling of exotic birds, but until USFWS Division of Law Enforcement stops seeing all aviculturists as potential smugglers or law breakers, this will be impossible. On a positive note, recently a new Chief has been appointed at USFWS Office of Management Authority and he has reached out to the avicultural community. Aviculture believes that this is signaling a new era of cooperation and understanding between USFWS and aviculture. Aviculture welcomes this. Hopefully, this outreach will expand to law enforcement.

3. Amend Section 105(c), "Moratoria on Imports of Exotic Birds Covered by Convention", to clarify that exotic birds covered on Appendix III of the Convention shall only be subject to the WBCA as to those species found in the country of Appendix III listing.

After adoption of the WBCA, anti-trade activists took the USFWS to Federal Court to effectively include in the WBCA birds listed on CITES Appendix III (that is birds listed specifically as to certain countries of origin, but not as to all CITES parties at large), regardless of their country of origin or listing. The anti-trade plaintiffs alleged that this was justified because the WBCA failed to make a distinction between birds listed on Appendix III which are country-specific, and the same species occurring in non-listing countries. Under CITES, birds listed on Appendix III are only included within the CITES Treaty for specific countries where the species may be rare and not as to other countries of origin where the species may be abundant. Appendix III listed birds are not endangered or threatened species. They are merely birds in which specific countries, but not CITES at large, do not wish to

trade. The court has held that the WBCA made no such distinction even though it may have intended to do so.

Section 105(c) should have appropriate wording added to effectively limit the coverage of the WBCA of Appendix III birds to wild exotic birds originating in the country of listing only.

4. Amend Section 112(2) "Exemptions for Personal Pets" by requiring the USFWS to issue regulations simplifying the importation of pet birds.

The WBCA allows that an individual may import up to two exotic birds in any year upon his/her return to the United States after having been continuously out of the country for a minimum of one year. Issuance of such permits should be based upon nothing more than an affidavit from the applicant that he/she has met the out-of-country requirement, has not exceeded the allowable two birds, has acquired the birds legally, has the proper CITES or other required permits, and that the intent of the importation is not for re-sale purposes. The requisite permits would be attached to the affidavit. Abuse of the "personal pet" exemption is unlikely to ever reach proportions that will be detrimental to wild populations. Presently, due to the relatively large number of personal pet versus other applications, and the complexity of the existing information requirements, it is likely that a large fraction of available USFWS staff time is spent in processing innocuous pet-bird permits. As a result, more significant and complex permit applications experience unacceptably-long delays.

5. Amend Regulations under Section 112(4), "Cooperative Breeding Programs", to eliminate the requirements imposed by the USFWS under the Regulations that participants be required to "track the whereabouts of progeny of imported birds."

In its Report, Page 20, Congress directed the Secretary to issue permits if the applicant can demonstrate that he or she is capable and fully intends to keep track of imported birds and their offspring. The purpose of this requirement was to ensure that if efforts to reintroduce the species into the wild were undertaken, the location of birds that might be included in such a program and their genetic makeup would be known. However, upon reflection, aviculture believes that WBCA regulations requiring the tracking of the progeny will act as an impediment to aviculturists participating in captive breeding of captive-bred offspring of birds imported under Section 112. Additionally, due to the breeding biology of many of these species, this could eventually lead to the tracking of hundreds, or even thousands, in the case of more prolific species, of birds and will be totally unworkable and unmanageable. It also introduces the specter of unwarranted law enforcement activities involving U.S. captive-bred exotic birds. Certainly, cooperative breeding programs will encourage the participation of aviculturists in continuing to breed captive-bred offspring of imported cooperative breeding program birds. However, if these programs become successful in producing large numbers of offspring, regulation requiring tracking of captive-bred offspring will deter avicultural breeding efforts. It

will also remove the incentive for cooperative breeding programs, which is to have as many participants working with and producing as many captive-bred offspring from cooperative breeding program imported birds as possible. The USFWS has already seen this deterrence of captive breeding under the CBW (Captive Bred Wildlife) Program under the Endangered Species Act. This program requires tracking of captive-bred endangered species and has deterred broad participation and is actually shutting down breeding programs for endangered species due to the limited numbers of aviculturists willing to register with the government. The WBCA itself under Section 112(4)(A) only required the promotion of conservation of the species by enhancing the propagation and survival of the species. It was the Report which contemplated the tracking of progeny for future release programs. At this time it is more important to encourage propagation of these species than it is to track the whereabouts of offspring for release programs which may be decades away. If these programs are successful, the whereabouts of captive-bred cooperative breeding program species will be well known in aviculture and the deregulation of progeny will actually serve as a greater incentive for wider participation by aviculturists in promoting captive breeding of cooperative breeding program progeny.

Trade in Captive-Bred Birds

Captive breeding of exotic birds was already dramatically increasing between 1985 and 1992, prior to the WBCA, due to advancements in and education by the groups joining in this testimony about exotic avian science, veterinary techniques, diet and husbandry and increased interest and participation in aviculture. Captive-bred birds were and continue to be naturally replacing wild-caught birds for the pet trade. The WBCA has had little to do with the increase in breeding of exotic avian species. On the other hand, the inability of aviculture to import even captive-bred exotic birds since adoption of the WBCA is already having a detrimental effect on avicultural activities. While aviculture has the ability to fill a great deal of the void created by the WBCA in the pet trade supply, it must be given the tools to continue to do so. Foreign breeders of exotic birds have different gene pools and species needed by U.S. aviculture. Shipping mortality of captive-bred birds is far below the 14% level reported for wild-caught exotic birds. The prohibitive WBCA regulatory structure, especially with respect to the ability of aviculturists to import captive-bred exotic birds, is deterring avicultural pursuits both in supplying the pet trade and in creating self-sustaining populations of exotic birds for preservation of rare and endangered species. This was not the intent of the WBCA.

Aviculture is gravely concerned that without swift and decisive action by Congress, the WBCA will continue to fail aviculture in the U.S. and abroad as it relates to trade in captive-bred birds. For aviculture, this is the most important part of the current oversight and reauthorization process. The WBCA must acknowledge the legitimacy of aviculture if captive-bred birds are to replace wild-caught birds in trade. Aviculture respectfully requests that Congress amend the WBCA and give direction to the USFWS as summarized below.

6. Amend Section 107, "Qualifying Facilities", and require the USFWS to issue regulations which will promote the captive breeding of exotic birds in the United States and foreign countries and insure the free importation of captive bred exotic birds into the United States as a tool to promote aviculture and exotic bird conservation, and to control illegal trade.

On March 17, 1994, the USFWS proposed complicated and intrusive regulations under Section 107 as a precondition to allowing captive-bred birds to be imported into the United States. The draft regulations were so unworkable and intrusive that they resulted in a massive outcry from aviculture. Unfortunately, no final regulations have been adopted. Therefore, it is impossible for Congress to review these during this oversight process. The draft regulations as proposed would surely have deterred captive breeding and would certainly not have promoted it. They were also hypocritical. The USFWS requires only a simple affidavit of captive-breeding to allow CITES-listed birds bred in the United States to be exported from the United States. **The regulation of legitimate captive-bred birds has nothing to do with wild exotic bird populations.** It was not the intent of the WBCA to regulate captive-bred birds. The fear of "laundering" (trading in wild-caught birds alleging they are captive-bred) is used to justify the proposal of overly restrictive regulations to control importation of captive-bred birds. This is neither appropriate nor acceptable.

Currently, WBCA Section 107 is a simple section for which the USFWS has proposed complicated and excessive regulations requiring, among other things, disclosure of proprietary husbandry and breeding information, proof of origin of breeding stock, cage sizes, diet and other detail in such a way as to deter any but the largest captive breeding facilities with huge staffs from qualifying. This will not insure against laundering, but will effectively eliminate from trade most captive breeding facilities which do not have the staff or funds to complete and furnish the paperwork which the USFWS requires. This was not the intent of Congress which stated in the Report: "It is also the intent of the Committee that the paperwork burden required of captive breeding facilities be minimized, especially as it applies to small facilities that employ few people." **Report page 18.** This directive was either missed or disregarded by the USFWS in its proposed regulations. The regulations as proposed will even discourage participation by larger facilities which might comply with reasonable and workable regulations as a cost of trade with the United States. Most individuals would sooner pursue unregulated trade with other countries rather than comply with unworkable or intrusive U.S. regulations and delays.

Aviculture requests that the WBCA be amended and that Congress instruct the USFWS to effectively allow and promote the importation of captive-bred birds under Section 107, as follows:

(i) Require an affidavit from the facility of breeding that birds to be imported were bred from parents housed at the facility.

(ii) Require that birds to which an affidavit pertains be marked with a simple marking system for identification.

(iii) Require a certificate by a licensed veterinarian that the facility contains an adequate number of pairs to supply birds in the numbers to be exported and is operated humanely.

(iv) Require local CITES management authority certification that the operation of that facility does not deplete birds in the wild.

(v) Provide the USFWS with a quota option on a facility-by-facility basis to be used to guard against laundering.

(vi) Provide that owners of a facility proved to be laundering birds to the United States shall forever lose their right to export birds to the United States.

7. Amend Section 106(b)(1), "List of Approved Species", to clarify that Congress did not intend for species regularly bred in captivity and for which no wild-caught birds of the species are in "trade", did not mean that if any of a regularly captive-bred species are in illegal trade, the species would not then qualify as regularly bred in captivity.

The USFWS, in promulgating its Regulations, added the words "legal or illegal" to modify the word "trade" when determining whether or not species regularly bred in captivity and of which no wild-caught birds were in "trade" would qualify under the List of Approved Species. It is both unreasonable and an inappropriate conservation measure to add the words "illegal or legal" when describing trade in determining whether birds regularly bred in captivity would qualify as approved species. The fact that some number of birds of a given species may be in illegal trade should not prevent birds regularly bred in captivity and for which wild-caught individuals are not generally in the pet trade from being approved species under Section 106(b)(1). In fact, withholding from the Approved Species List species regularly bred in captivity merely because some of those species may be in illegal trade will actually serve as an incentive for continued smuggling. If birds regularly bred in captivity are on the Approved List, then they will be readily available to the trade and the smuggled bird will not be at a premium. In fact, in the Report, on Page 17, Congress stated, in reflecting on the Approved Species List of the New York State Wild Bird Law that "...certain species are exempted from the banding requirement because **virtually** all of the specimens of those species in trade have been captive-bred" [emphasis added]. It is clear that Congress intended the Secretary to use the criteria used for the New York State Law which makes no distinction for birds regularly bred in captivity not qualifying because some were or might be in illegal trade. In the Report, Page 17, Congress stated that the Secretary should "...include such species on the Approved List under this Section as long as the Secretary believes that trade based on these standards would not result in harm to species in the wild." As previously stated, to keep species regularly bred in captivity off the Approved List because some of those species may be in **illegal trade** will actually serve to encourage illegal trade and perpetuate harm to those species in the wild.

Congress is requested to clarify this problem either by direction to the Secretary to take appropriate action to delete the word "illegal" from the Regulations under the WBCA or by Congress inserting in (b)(1) of 106 of the WBCA the word "legal" before the word "trade".

8. Amend Section 114(c) by deleting the same.

As directed under Section 114(c), USFWS held an open meeting in Washington on April 7, 1995. It is aviculture's understanding that the USFWS has reported, or will soon report to Congress that government controlled marking programs and facility certification are not necessary. Aviculture strongly objected to these provisions in 1992 and their adoption in the WBCA has served as a source of stress and concern to aviculture since that time. Aviculture is relieved to hear of USFWS findings because aviculture has always believed these sections were impediments to a viable WBCA and to a good working relationship between the avicultural community and the USFWS. Aviculture is appreciative of the USFWS' direction in this area.

9. Delete Section 115 in its entirety.

Based on the above, we assume that the Secretary has determined that it will not be either helpful or of any productive purpose to require marking and recordkeeping of exotic birds already in captivity in the United States. In fact, this provision is unworkable and would deter captive breeding which is specifically prohibited in Section 115(b) in any event. Not only would this provision deter aviculture, but, if pursued, would involve the expense of millions of tax dollars for no productive purpose and bring unnecessary enforcement scrutiny to U.S. captive breeding efforts. The purpose of the WBCA was to conserve birds in the wild, not control breeding in the private sector.

10. Add a new section to the WBCA providing that exotic birds hatched from parental breeding stock in the United States shall be deemed legal notwithstanding any other law, regulation or policy to the contrary.

It is currently the policy of the USFWS that any exotic bird hatched in this country that represent progeny of illegally-imported parental stock, no matter how many generations ago, is in and of itself illegal and subject to seizure and confiscation proceedings. In other words, all domestically-hatched offspring of any illegally imported birds are also illegal. Under this policy, if parental stock were illegally imported and the offspring were a product of five generations of captive breeding in the United States or elsewhere, all of those captive-bred generations would be considered illegal by the USFWS. Thus, aviculturists attempting to buy even U.S. captive-bred birds still must be concerned that if originally imported parental stock of any prior generation were illegal, their domestically-bred birds could be subject to seizure and confiscation. Congress should effectively create a new section by amendment to the WBCA declaring that all birds documented as hatched of parental stock in the United States are legal notwithstanding the

provision of any other law. The United States government grants citizenship to the children of illegal aliens born in the United States, yet the USFWS has determined as a matter of policy that exotic birds born in the United States of parental stock which may have been illegally imported are not legal. This policy is so preposterous that it could even pertain to originally imported birds deemed illegal due to inappropriate paperwork, improper shipment or other technical violations of law. There is no reasonable basis to have any uncertainty of the legal status of birds hatched from parents located in the United States. Such a policy punishes the U.S. hatched birds and their honest owners.

11. Continue Congressional Oversight.

Finally, Congress must retain oversight of the WBCA. Aviculture asks that in April of 1997 Congress again hold an oversight hearing on the WBCA. We ask that between now and that date Congress, through the staff of this Subcommittee, monitor the regulations and the progress of the USFWS in making P.L. 102-440 function as the WBCA.

CONCLUSION

On behalf of aviculture in the United States, the AFA is honored to have had this opportunity to share its concerns about the WBCA with the Subcommittee. Aviculture wishes to have an effective, fair and properly functioning WBCA which will accomplish its goals. Programs for sustainable trade and aviculture are independent, but critically important to one another. We cannot trust one without the other to effectively save birds and each, if properly promoted, will have side benefits in addition to saving and preserving exotic avian species. Sustainable trade and giving value to trade in wild birds will be an incentive to preserve habitat. Aviculture and promoting the captive breeding of avian species will have the effect of creating sustainable gene pools of these species, allowing us to better understand their biology. Captive breeding of exotic birds in the U.S. reduces the demand on wild populations to supply trade. Additionally, the incentive to smuggle exotic birds is reduced with the rearing of each and every captive-bred exotic bird produced in a U.S. aviary. The avicultural organizations and people joining in this testimony on behalf of U.S. aviculture are themselves the stewards of exotic birds; they educate the public about how important it is that these birds be saved, both in captivity and in the wild; and they furnish pet birds for human companionship. We ask that Congress help us, aviculture, in our efforts to face this task. Make the WBCA a workable conservation and humanitarian tool, not one which obstructs conservation and humanitarian pursuits.

Respectfully Submitted on Behalf of Aviculture
By the American Federation of Aviculture, Inc.
and by the Following Avicultural Organizations and
Concerned Parties in Support of Aviculture

AVICULTURAL ORGANIZATIONS JOINING IN AFA'S TESTIMONY

American Lory Society
Pionus Breeders Association
The Commercial Psittacine Breeders
Model Aviculture Program
Aviculture Society of America
National Colorbred Association
International Loriinae Society
International Aviculturists Society
Florida Federation of Avian Societies (>50 Clubs)
International Parrotlet Society
Waxbill and Parrot Finch Society
National Finch and Softbill Society
Society of Parrot Breeders and Exhibitors
American Cockatiel Society

New Mexico Bird Club, Inc.
Suncoast Avian Society
Aviary and Cage Bird Society of Southern Florida
Chester County Pennsylvania Bird Breeders
Maine State Cage Bird Society
Ventura County Bird Club
Finch Society of San Diego County
National Capital Bird Club
Acadiana Bird Club, Inc.
Orange County Bird Breeders
South Bay Bird Club
Front Range Avian Society
Santa Barbara Bird Club
Imperial Bird Club
Greater Pittsburgh Cage Bird Club
Rose City Exotic Bird Club
Southern Maryland Cage Bird Club
South Bay Bird Club
Greater Brandon Avian Society
Aviary and Cage Bird Society of South Florida
Reno Area Avian Enthusiasts
West Pasco Exotic Bird Club
Delaware Valley Bird Club
Arizona Avicultural Society
Colorado Cage Bird Association
Palmetto Cage Bird Club
Erie Cage Bird Club
Black Hills Cage Bird Club
Kenosha Exotic Bird Club
Alaska Bird Club
South Mississippi Cage Bird Society
Central New York Cage Bird Club
Bayou Bird Club
Arizona Avian Breeders Association
Gulf Coast Bird Club
Greater Rochester Hookbill Association
Kentuckiana Cage Bird Club
Rocket City Cage Bird Club
Central Kentucky Cage Bird Society
Gainesville Bird Fanciers
Bird Lovers of the Bluegrass, Inc.
West Valley Bird Society
Kentuckiana Bird Society of Aviculture
Connecticut Association for Aviculture
Tampa Bay Bird Club
Sunshine State Cage Bird Society
The Society for Conservation in Aviculture-England
Contra Costa Avian Society
Sussex County Exotic Bird Club
Central Florida Bird Breeders Inc.
Central Jersey Bird Club
Northeastern Avicultural Society
Alamo Exhibition Bird Club
Contra Coast Aviculture Society
Philadelphia Avicultural Society
Central Jersey Bird Club
Central California Avian Society
Real Macaw Parrot Club
Delaware Valley Bird Club
Oklahoma Cage Bird Society
York Area Pet Bird Club
Town and Country Feathered Friends
Cleburne Bird Society
Rocky Mountain Society
Alamo Exhibition Bird Club, Inc.
Cream City Feathered Friends
West Florida Avian Society
Bird Education and Kaffee Klatch Society
Missouri Cage Bird Association
San Diego Bird Breeders
Gateway Parrot Club
Raleigh Durham Caged Bird Society
Tennessee Valley Exotic Bird Club
Tropical Bird Fanciers
North West Ohio Exotic Bird Club
Central Oklahoma Bird Club
Feathered Friends Society
Madison Area Cage Bird Association of Wisconsin
Saginaw Valley Bird Club
Arizona Aviculture Society
Exotic Cage Bird Society of New England
L'Oisellerie de L'Estrie of Quebec
Rhode Island Pet Bird Club
Hookbill Hobbyists of Southern California
B C Cage Bird Club
Central Texas Bird Society
Aviculturists of Greater Boston, Inc.
Central Oklahoma Bird Club
Northwest Bird Club
Foothill Bird Fanciers
Arizona Seedcrackers Society
Kansas Aviculture Society, Inc.
Parrot Breeders Association of Virginia
Treasury Coast Exotic Bird Club
Gold Country Bird Society
Monterey Bay Cage Bird Club
Capital City Cage Bird Club, Austin
Golden Gate Avian Society
Capitol City Bird Society, Sacramento
Texas Bird Breeders Fanciers Association
Camden Mississippi Bird Club
Redwood Empire Cage Bird Club
Northeastern Pennsylvania Cage Bird Club
Central Pennsylvania Cage Bird Club
Federation of Pennsylvania Aviculturists
Finger Lakes Cage Bird Association

AVICULTURISTS AND COMMERCIAL ORGANIZATIONS WHICH HAVE REQUESTED TO BE RECORDED IN SUPPORT OF AFA'S TESTIMONY

Mountain View Aviary
The Feather Fancy
Sybil's Aviary & Supply
The Bird Endowment
A.B.C. Bird Center
Pacific Bird & Supply Co., Inc.
Morning Star Aviary
Parrots of Pine Island
Pearly Gates Aviaries
The Grey Place
Wings & Whiskers
Flying "B" Bird Ranch
T's from 2
Lannom Farms
Blynn Sanford Inc.
Bernies Birds
V.I.P. Aviaries
Ceasar Enterprise
Acrey Aviary Products
Honda Baby Parrots
Pat's Bird House
O.P.I's
Robert John, D.V.M.
Flo's Fancy Flights
Canary Land Bird Farm
Swelland's Cage & Supply
J&W Aviaries
DL Products
Bird City U.S.A.
MG Industries
Bird's Haven, Inc.
Parrot Express Inc.
On Wings, Inc.
Robbies Feed & Supply Co.
NorshoreBird Supply Inc.
D's Bird House
Animal Medical Center, Lake Charles
Backwoods Aviaries
Avian Acres
Chris Davis Animal Behaviorist
R.L. Enterprises
Bess Breeder's
Elain's Originals
Verde Squirts Aviaries
Casa de Papaguyous
Majestic Manzanita
L&D Sales
Bird Works So. C.A.
The Bud, Bird and Bunny Farm
Walt's Cockatiels
Mr. Reynoso Bird Factory
Wings and Fins
D&M Bird Ranch
Smelt Feed & Pet Supply Inc.
Deedee Grizzard
Luv Them Birds Inc.
African Queen Aviary
Carolina Cage Company
International Pet & Supply Inc.
Zoological Bird Imports
Brandywine Aviary
Fine Feathered Friends
Birds by Veta
The Bird Lady
Johnson's Jungle
Red Color Canaries
Feathers Plus
Butler's Breeders
Wee Bird Farm
Cairns Enterprises
The Exotic Bird House Aviary
John Singleton Breeder
The Feather Tree
Marquez Feather Farm
Coast to Coast
Avian IV
Beak Boutique
Rubi Birds
Vales Aviaries
Precious Cargo
John & Linda's Aviary
W.A.W. Aviaries
The Feather Fantasy
Out on a Limb Aviary
Sun Seed Company, Inc.
West Esplanade Veterinary Clinic
C & D Aviary
T & D Breeding
Central Florida Exotics, Inc.
Tucker Farms
Birds by Veta Too
The Macaw Project
Gonzele's Pet Shop
San Juan Aviary
English's Parakeets
Imperial Gardens
Avian Magic
Stuff for Birds
Ruthledge Aviaries
Golden Wing Ranch
Robert A. Berry Assoc.
St. Francis Aviaries
Flights of Fancy
Sonj's Tropics
Casa de Papagallos
Ortman Inc.
Bowman's Birds of Paradise
The Pet Ranch
Skyline Garden Avian Research
Landvater's Land of Birds
Mar's Animal Farm
Hagen's Avicultural Research Institute (HARI) Canada
Dennis Bart (Breeder)
William R. Horton (Breeder)
Suzanne V. Tyson, DVM
Joe Freed's Avian Petiatric Supply
ABCDE Animal Clinic, Pam Hendrickson, DVM
Lyon Electric Company Inc.
Premium Nutritional Products
Pretty Bird International, Inc.

SUPPLEMENTAL LIST OF SUPPORTERS

Avicultural Organizations

American Cockatiel Society, Inc.
Asiatic Parrot Society

Dallas Cage Bird Society
Bird Owners of Texas
Central Coast Avicultural Society
Motor City Bird Breeders, Inc.

Corporate and Private Organizations

Parrot Peak Preserve
Avian Acres
Aves International
Kaytee Products, Inc.
Voren's Aviaries
Voren Research Institute for
Psittacultural Science, Inc.
Florence's Aviaries
DL&J Birds
Kenilworth Aviaries
Tropaquatic's
Animal House
Ishmael Slemp
Vickie Hester
Tommy Dunsmore

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HENRY J. HYDE
6TH DISTRICT, ILLINOIS

COMMITTEES
CHAIRMAN
JUDICIARY

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Congress of the United States
House of Representatives
Washington, DC 20515-1306

September 27, 1995

Honorable Jim Saxton
Chairman
Resources Subcommttee On Fisheries, Wildlife and Oceans
H1-805 O'Neill Building
Washington, D.C. 20515

Dear Chairman Saxton:

I am submitting a letter from my constituent, Mr. Frank Curic, President of Zoological Birds Import, to be made part of the hearing on the Wild Bird Conservation Act of 1992.

Mr. Curic outlines some of the abuse and harassment he has had to endured in legally importing birds for his business. It was never the intention of the Wild Bird Conservation Act to punish law abiding citizens, but Mr. Curic's experience proves that something went wrong and we need to fix it.

It is my sincere hope you will find his contribution to this hearing valuable, and I appreciate your considering Mr. Curic's statement for the record.

Sincerely,

Henry J. Hyde

HH:nms

THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBERS

DIV. OF BIRD'S HAVEN, INC.

ZOOLOGICAL BIRDS IMPORT

U.S.D.A. APPROVED QUARANTINE STATION

11055 WAVELAND AVE
FRANKLIN PARK, ILLINOIS 60131
U.S.A.
TEL.708-941-8624
FAX:708-941-7392

MAILING ADDRESS:
371 ROMAN ROAD
ELMHURST, IL 60126

September 27, 1995

Honorable Congressman Henry Hyde
50 E. Oak Street
Addison, IL 60101

RE: U.S. Fish and Wildlife
Letter of Complaint

Congressman Hyde:

I am CEO of Bird's Haven Incorporated, located in Elmhurst, Illinois, with stations also located in Franklin Park, Illinois. The company is approved by U.S.D.A. standards, also licensed by the U.S. Fish and Wildlife Service.

1. Complaint: In January, 1992, Mr. John Decker, U.S.F. & W agent, Chicago, Illinois said directly to this writer "that if it was up to me (him), all birds would stay in the wild." Also, on another occasion, Mr. John Decker, agent of the U.S.F & W said "He would do everything he can to put me out-of-business."

   These remarks made by an agent of the government, without specific cause, I have taken as a direct threat against my business and livelihood.

2. On January 18, 1992, he caused search warrants to be served upon our two business locations and a residence. None of those warrants were signed by a judge. Attempts by our attorney to obtain copies of the affidavits behind those search warrants, from the court files, were fruitless, leading us to believe none ever existed.

3. In January, 1992, agent John Decker, U.S.F. & W impounded 3 shipments of birds from 3 different countries, questioning the authenticity of documentation without consulting the U.S.F. & W. supervisory personnel. These documents were issued by the wildlife

ministries of those foreign countries as being authentic., and without probably cause, based on opinion only.

Congressman Hyde, on my own initiative I contacted the ministries of three foreign countries for re-verification of documents issued by them to be forwarded, via FAX, to agent Decker of the Chicago Office, which was done, and after five weeks of impoundment of the shipment, without-cause, they were certified and released.

This action, of unaccountability, of agent Decker, caused my company great stress and market-loss without cause.

4. In February, 1992, without cause, the Immigration and Naturalization Service paid us a visit to check our employees status. They brought with them I.D.s collected by agent John Decker and/or U.S.F. & W. agents from our employees during a search conducted on January 18, 1992. There was nothing in the search warrants to authorize seizing of employee's documentation of status. I further state that most of our employees have been with the company over 10 years.

5. In May, 1992, without cause, six shipments of birds from 5 different countries were imported by our company. Shortly after receiving these shipments, agent John Decker - on behalf of the U.S.F. & W. sent a letter stating that the U.S.F. & W. is refusing clearance for all six shipments. The reason stated at that time was: "Documentation does not appear to be authentic." This occurrence took three months, from the arrival date of the birds, to clear, before the birds were released.

6. In May, 1992, agent John Decker came into our quarantine facility accompanied by 2 individuals whom he identified as U.S. F. & W personnel from Washington D.C.

The 2 individuals were finally identified as impostors, environmentalists with an Environmental Investigation Agency. This agency is headquartered in London, England and is well known as "long time advocates for the total ban on importation of exotic birds."

7. During 1992, several shipments of birds went through full double U.S.F. & W. inspections, again without specific cause, identification and under misrepresentation by the inspecting agency.

8. During 1992, several shipments of birds went through a full double U.S.F. & W inspection without cause, in New York and Chicago. In no instance were any violations found or documentation questionable. All of these inspections were without legitimate reason and the company charged for all of the above unnecessary procedures.

9. In May, 1992, agent John Decker personally service a subpoena to appear before a Grand Jury covering Basler Airlines in Wisconsin, which was initiated by agent John Decker of the U.S.F. & W. Again, there was no grounds for indictment. The subpoena also covered all business records. Therefore, the airline severed our business relationship and will no longer carry our birds.

10. From January 1992, through 1994 each time I returned from a business trip I was subjected to a thoroughly conducted search at the airport. There were times when U.S.F. & W agents searched my luggage and briefcase AFTER customs had completed their search. The papers in my briefcase, amount of monies carried, etc., had all been gone through by agents of the U.S.F. & W. These searches have been documented by the U.S. Customs service.

11. In 1994, while in Africa, I sent a package of wood carvings valued at $475.00, which was

documented by the U.S. Customs service. The package was sent to Chicago but was held by the U.S.F. & W for 14 days. Two valuable African masks were so roughly handled that they were destroyed.

12. We import live food (mealworms) for our birds from Belgium. Every shipment is held by U.S.F. & W. for inspection at the airport, even though this type of shipment falls under the aegis of the U.S.D.A. and NOT the U.S.F. & W. Mealworms require refrigeration but must be left out for U.S.F. & W. inspection. By the time the U.S.F. & W. released these shipments they are ruined from overheating. Each shipment is valued at approximately $1,500.00.

13. In July, 1993, U.S.F. & W successfully stopped American Airlines from carrying our bird shipments to the United States. Previously we had used American for 15 years without any problems.

During the current year, 1995, the U.S.F. & W. is applying pressure to our present carrier, Sabena Airlines for the same reason.

14. In December, 1992, without cause or justification, we received citations for 2 documents left behind by airlines in a transit city, but forwarded immediately on the very next flight to the United States. This type of occurrence is beyond our control, yet the company was fined $1,000.00 per incident.

15. In January, 1994, citations alleging violations of IATA shipping rules were served for a total of $5,000.00.

It became apparent at that time that the U.S.F & W published in the Federal Register only, their regulations for shipping live animals, **WITHOUT** notifying our company of any changes. The U.S.F. & W. then decided to enforce these regulations even

though we had not been notified of changes.

16. In April, 1994, agent John Decker initiated new citations against the company for alleged violations for the humane transport of live birds. These citations were listed and went back to 1992. The total cost for these unfair allegations was $18,500.00.

17. In April, 1994, agent John Decker again initiated new citations for alleged violation for the humane transport of live birds, costing $5,350.00. Agent Decker alleged the company "imported 1000 finches without proper documentation." Again, the wildlife ministry of the exporting country sent a FAX to agent Decker stating "3000 pairs, which agent Decker instituted as reading 3000 head."

18. In March, 1994, citations for shipping violations on shipments arriving on October 15, 1993, total was $2,000.00.

19. On August 10, 1995, the same type of citation was issued for shipping violations on 3 separate shipments imported on 4/30/94, 5/12/94, 3/7/95, total cost $13,000.00.

20. On August 11, 1995, citations were again issued on a shipment from Tanzania on October 3, 1994, totaling $5,600.00.

This particular citation was totally without justification or cause, in fact being a full fabrication by the U.S.F. & W. NOTE: the citation was issued for a shipment supposedly from Tanzania, East Africa, of a small parrot which only lives in South America.

TOTAL COST TO DATE: $51,150.00

IN SUMMARY: Please note that every shipment to date has been questioned, held up, or had citations issued by the U.S.F. & W. for alleged violations. These continue despite every effort being made by the company to comply with U.S.F. & W. regulations (even when we are not notified what these regulations consist of and are not notified of changes). Hearings requested by

the company and held by the U.S.F. & W. have **ALL** resulted in higher charges being issued against it.

The company has been importing exotic birds into the United States for the past 13 years and has complied with all regulations (when we are notified what they are and when changes have been made). I myself travel continuously to personally oversee the exporting country's shipping standards and procedures to ensure they compaby with United States standards. I also make every effort to personally accompany these shipments whenever possible to doubly ensure that all standards for the humane treatment of imported animals are carried out.

I feel that the company is being harassed by the U.S.F. & W. and is being specifically targeted for unwarranted and unsubstantiated fines and attention. These actions by the U.S.F. & W. have placed the company in an untenable position of trying to do business under impossible conditions. The U.S.F. & W. is the only federal agency that has caused acute financial and emotional stress to the company, as well as eliminating 23 other bird importations throughout the United States.

Your attention and investigation into this important matter would be greatly appreciated. Your support of the American businessman is well-known and we turn to you for help in this matter.

Frank Curie, Pres.

14 NOVEMBER 1994 — MONDAY

COP 9 CONSERVATION TRIBUNE #6

Published by the International Wildlife Management Consortium, its members, and supporting institutions

US forms shocking liaison with EIA

For several delegations that witnessed it, the press conference held jointly by the Head of the US CITES delegation and two NGO's on Friday came as a great and understandable shock.

The ostensible purpose of the conference was to inform the media on efforts to improve enforcement of CITES. But enforcement is a matter for which the CITES Secretariat, not NGO's, is responsible, and it ould have been much more appropriate,therefore, for the US to hold this press activity in conjunction with the ecretariat. The perception that the two GO's which took part are playing a substantive role in affairs which should be conducted strictly between CITES and Parties to the Convention sets as disturbing precedent and shows a lack of respect for the sovereign rights of the Member-States.

One of these two NGO's, the Environmental Investigation Agency (EIA), has had a severe negative impact on the affairs of CITES Perhaps the Head of the US delegation was not aware of the many inappropriate actions taken by the EIA such as the following:

• In 1989, the EIA deliberately hid critical documents from a Party to the Convention which, if communicated immediately could have led to important enforcement actions. Could this have been done in the

cont., p. 3

Surprenante Alliance EU / EIA

Plusieurs délégations qui ont assisté, vendredi, à la conférence de presse donnée conjointement par le Chef de la Délégation des EU et deux ONGs ont été choquées.

Le but évident de cette conférence de presse était d'informer les médias sur les efforts en cours afin d'améliorer la mise en application de la CITES. Cette mise en application est la responsabilité de la CITES et non celle des ONGs. Il aurait été, par conséquent, plus approprié que les EU tiennent cette activité de presse conjointement avec le Secrétariat. Le rôle substantiel joué par les deux ONGs dans une affaire relevant strictement de la CITES et des Parties à la Convention, crée un précédent inquiétant et démontre un irrespect total pour les droits souverains des Etats-Membres.

L'une de ces deux ONGs, "l'Environmental Intelligence Agency" (EIA), a eu un impact très négatif sur les affaires de la CITES. Le Chef de Délégation des EU n'était peut-être pas au courant des nombreuses activités inappropriées pratiquées par l'EIA, telles que :

• En 1989, l'EIA a délibérément dissimulé des documents très importants à une Partie à la Convention. Si les documents avaient été communiqués immédiatement, peut-être auraient-ils

cont., p. 3

Relación escandalosa entre los EEUU y la EIA

Para varias delegaciones que fueron testigos, la conferencia de prensa que fue dirigida el viernes conjuntamente por el Jefe de la delegación de CITES de los EEUU y de dos ONGs llegó como un gran y comprensible susto.

La intención aparente de la conferencia era de informar a los medios sobre los esfuerzos de mejorar la aplicación de la CITES. Pero la aplicación es un asunto bajo la responsabilidad del Secretariado de la CITES y no de las ONGs y por consiguiente hubiera sido mucho más apropiado si los EEUU hubieran dirigido esta actividad de prensa juntamente con el Secretariado. La percepción que las dos ONGs presentes están desempeñando un papel sustancial en asuntos que deberían ser tratados exclusivamente por la CITES y las partes de la Convención dió un precedente inquietante y muestra una falta de respeto por los derechos soberanos de los Miembros Estados.

Una de estas dos ONGs, la "Environmental Investigation Agency" (EIA), ha tenido un gran impacto negativo sobre los asuntos de la CITES. Tal vez el Jefe de la delegación de los EEUU no estaba consciente de las muchas medidas inapropiadas tomadas por la EIA, como las siguientes:

• En 1989, la EIA escondió a propósito documentos importantes a una Parte de la Convención que, si hubieran sido transmitidos inmediatamente, hubieran podido haber conducido a acciones importantes de aplicación Es posible que

cont., p. 3

In this edition...

Grahame Webb on Swiftlets
Doug Butterworth and Eugène Lapointe on the Minke

DISTRIBUTED AT CITES

...G, continued from p. 2

Similarly, the proposal implies that every bit of genetic variation encountered is important for the survival of a species. This is simplistic and incorrect. Variation such as that detected with genetic fingerprinting techniques reveals an enormous level of subtle DNA variation between individuals within a species, which is continually being gained and lost. The great majority of this variation is irrelevant to the survival of the species.

In conclusion, the genetic component of the US proposal is based on a series of simplistic assumptions that I consider to be fundamentally flawed. If implemented, they likely would result in species being allocated to the appendices on the basis of characteristics that have nothing at all to do with risk of extinction.

[For further information on the limitations of using genetic heterozygosities for assessing species endangerment, I refer you to the excellent book by Richardson, Bavestock and Adams (1986) "Allozyme Electrophoresis"; Academic Press. Pp. 357-358.]

#6

US / EIA continued from p. 1

interest of publicity and fund-raising for EIA?

- For several months in 1989, the EIA spread serious, though unfounded accusations, including a charge of corruption of the CITES Secretariat and its staff members;
- The group went on to spread these accusations to the media around the world and publish them in a book;
- During this same period, the EIA stole communications documents between the Secretariat and a Party to the Convention attending a CITES meeting in Botswana;
- Prior to the last IWC meeting EIA took part in a major fundraising effort on whales (with full page ads in a major US newspaper and the International Herald Tribune), making false accusations of illegal behavior by Norway and inappropriately criticizing Vice President Gore and the US Administration.

As a reminder of this press conference, participants of COP 9 are left with a monstrous paper "barometer" showing the contributions received for fundraising enforcement efforts. At a Boy Scout convention or arts and crafts fair, such a display might be appropriate, but here it represents a direct affront to the decency and respect which such intergovernmental meetings should be accorded.

Of course there are enforcement problems within CITES and they must be addressed. But this must be in accordance within the provisions of the text of the Convention. It must also be done the right way and by the right people.

EU / EIA continuación de p. 1

permis d'accélérer cette importante mise en application?

- pendant plusieurs mois en 1989, l'EIA a répandu des accusations très sérieuses et infondées contre le Secrétariat de la CITES et son personnel, y compris celles de corruption;
- le groupe a continué à diffuser ces accusations aux médias de toutes les parties du monde et les a publiées dans un livre;
- durant la même période, l'EIA a subtilisé des documents du Secrétariat de la CITES destinés à une Partie à la Convention participant à une réunion de la CITES au Botswana;
- L'EIA a participé, avant la dernière réunion de l'IWC, à une gigantesque campagne de fonds sur les baleines (une page entière dans quelques journaux importants des EU et dans l'International Herald Tribune) en faisant de fausses accusations sur un soit-disant comportement illégal de la Norvège et en critiquant ouvertement le Vice-Président Gore et l'administration des EU;

En commémoration de cette conférence de presse, les participants au COP9 ont reçu un monstrueux "baramètre en papier" qui laisse entrevoir les contributions perçues pour la campagne de fonds relative à cette mise en application. Lors d'une convention de jeunes Scouts sur une exposition d'art et d'artisanat, une telle démonstration aurait pu être appréciée, mais, dans le contexte présent, cette action représente un affront direct à la décence et au respect des rencontres inter-gouvernementales.

Bien sûr il y a, au sein de la CITES, des problèmes de mise en application qui doivent être abordés. Mais ceci doit être fait selon les dispositions du texte de la Convention, de la bonne manière et par les bonnes personnes.

EEUU / EIA continuation de p. 1

esta medida fue tomada en fnteres de la publicidad y la recolección de fondos para la EIA?

- Durante varios meses en 1989, la EIA difundía acusaciones graves pero infundadas, incluyendo un cargo de corrupción contra el Secretariado de la CITES y sus empleados;
- El grupo procedió a difundir estas acusaciones a los medios por el mundo y a publicarlas en un libro;
- Durante este mismo período, la EIA robo documentos de comunicacido entre el Secretariado y una Parte de la Convención asistiendo a la CITES que se reunía en Botswana;
- Antes de la última reunión de la IWC, la EIA tomó parte en un esfuerzo para recolección de fondos para las ballenas (con anuncios a toda plana en varios periódicos principales de los EEUU y en el International Herald Tribune) haciendo falsas acusaciones de conducto ilegal por Noruega y criticando inapropiadamente el Vice Presidente Gore y la Administración de los EEUU.

Como un recuerdo de esta conferencia de prensa, los participantes de la COP9 recibieron un "barómetro" enorme de papel mostrando las contibuciones recibidas para financiar esfuerzos de aplicación. En una convención de boy scouts o una feria de arte, una tal demonstración podría ser apropiada, pero aquí representa una afrenta directa a la decencia y al respeto debidos a tales reuniones intergubernales.

Naturalmente existen problemas de aplicación en la CITES y deperían ser discutidos. Sin embargo esto se tiene que hacer según las disposiciones del texto de la Convención y de una manera correcta y por la gente apropiada.

Testimony of Defenders of Wildlife

on Reauthorization of the

Wild Bird Conservation Act of 1992

Before the Subcommittee on Fisheries, Wildlife, and Oceans of the House Resources Committee

September 28, 1995

Introduction

On behalf of our 118,000 members and supporters, Defenders of Wildlife urges the members of this subcommittee to support reauthorization of the Wild Bird Conservation Act without any weakening amendments. Defenders played an active role in the development of this important conservation law, participating in a dialogue with the pet industry and other interested groups. We helped draft more stringent legislation — supported by a broad coalition — that would have banned most wild bird imports immediately. Instead, the WBCA was adopted as a carefully-crafted compromise. It phased out the most problematic species in trade while allowing some imports to continue, subject to reasonable restrictions. We continue to support this moderate approach and urge you to not reopen the debate via any substantive amendments.

1101 Fourteenth Street, NW
Suite 1400
Washington, DC 20005
Telephone 202-682-9400
Fax 202-682-1331

For the past three years, the Wild Bird Conservation Act has protected hundreds of wild bird species from excessive commercial importation to the United States. At the same time, the law has promoted captive breeding of birds by aviculturists in the U.S., and has benefitted American consumers by ensuring quality, healthy pet birds. By all accounts, the law has been an unqualified success.

Printed on Recycled Paper

The Purpose of the Wild Bird Conservation Act

Large-scale commercial trade in exotic birds has had a devastating effect upon wild bird populations worldwide. Excessive trade and habitat destruction together threaten more than 1,000 bird species with extinction. In the past two decades alone, international trade has been recorded for more than 2,600 of the approximately 9,600 known bird species, with trade levels estimated at two to five million birds annually [1]. Large birds such as parrots and macaws, a major component of the international trade, are particularly vulnerable to overharvesting because of their slow reproductive rates [2].

Problems of overharvesting are compounded by high mortality and collection methods that destroy important habitat. Up to 80% of birds die before reaching their final destination, as hundreds of birds are frequently crammed into small crates without sufficient food, water, or ventilation [3]. To collect these birds, trees are often cut down or nest cavities opened with machetes, resulting in permanent habitat destruction [4].

Prior to the Wild Bird Conservation Act, the United States was the world's largest importer of wild birds, importing more than 7.4 million birds between 1980 and 1991. This lucrative market overwhelmed many international attempts to control the bird trade, including export bans by range nations.

Unlike most policy issues which involve complex trade-offs and technical details, the problems of the wild bird trade fortunately can be largely solved by tapping a readily-available source of birds — those bred in captivity in the United States. By restricting imports of wild-caught birds from foreign countries, the Act promotes both good conservation and U.S.-based industry as part of the solution.

Legislative History of the Wild Bird Conservation Act

The current law emerged from two separate bills introduced in 1991 which addressed the trade problem in different ways. The Exotic Bird Conservation Act (H.R. 2541, S. 1218) would have gradually reduced some imports over a five-year period but still allowed a significant amount of trade to continue. This bill was supported by the Pet Industry Joint Advisory Council (representing the major commercial bird importers), the American Federation of Aviculture, the World Wildlife Fund, and others. In contrast, the Wild Bird Protection Act (H.R. 2540, S. 1219), supported by Defenders and more than 200 conservation, animal protection, and scientific organizations, would have immediately banned all importation of wild birds and required marking of exotic birds already present in the United States. After months of hard-fought negotiation, a compromise was developed that entailed significant concessions from both sides. The compromise basically allowed

continued imports of some species while restricting imports on other species regulated under international treaty and subject to more intense trade pressures. The resulting legislation, known as the Wild Bird Conservation Act (H.R. 5013), was unanimously approved by Congress, and was signed into law by President George Bush on October 23, 1992.

The Wild Bird Conservation Act protects wild birds by restricting the importation of bird species listed in the three Appendices to CITES. The Act placed an immediate ban on ten of the most imperiled species and established one-year import quotas for the remainder. Once these quotas expired in October 1993, the Act effectively banned all importation of CITES-listed bird species, with exceptions for scientific research, zoological breeding or display, approved cooperative breeding programs, and a "clean list" of species for which trade is known to consist entirely of captive-bred individuals. Ten bird families, such as guineafowl, turkeys, pheasants, and ducks, are also exempt from the Act's provisions, as are all birds native to the United States. As an additional measure of protection, the Act authorizes the Fish and Wildlife Service to prohibit the importation of species not listed under CITES; to date, however, the Service has chosen not to do so.

Success of the Wild Bird Conservation Act

Since passage of the WBCA in 1992, the volume of birds imported to the United States has declined significantly. Throughout the 1980s, the United States imported an average of 700,000 birds annually. According a series of reports based on these import figures, captive-bred birds accounted for approximately nine to 13 percent of the total, with the remainder taken from the wild [5]. Figures for 1994 are still incomplete, but analysis of the available data indicates a total of 80,000 birds imported, approximately 45 percent of which were captive bred. This reduction in trade is primarily due to the decrease in the importation of wild-caught birds, which made up the majority of the trade prior to 1992. By restricting imports, the Wild Bird Conservation Act has successfully reduced trade pressures on wild bird populations. For example, biologists have noted the importance of the WBCA to conservation of the red-fronted macaw, as 80 percent of the international trade in this species was destined for the United States [6].

The Act has been a success for bird retailers and breeders in the United States as well. Despite predictions to the contrary, the sale of pet birds in the United States has flourished since the passage of the Wild Bird Conservation Act. An annual retail survey published by Pet Product News indicates that sales of pet birds and bird products have nearly doubled in the past four years, from $277 million in 1991 to $543 million in 1994. Even prior to the WBCA, many pet stores, from major chains such as Petsland, PETsMART, and Docktor Pet Centers to independent stores such as the American Bird Company in Northern Virginia, sold only captive-bred birds. Pet

bird dealers readily acknowledge that captive-bred birds are more tame and healthy than wild-caught birds and therefore make better pets. Wild-caught birds, however, generally cost less because captive breeding is an expensive and labor-intensive process. By preventing the importation of wild-caught birds, the WBCA uses market forces to shift consumer demand to professional breeders. New York's 1984 law banning the sale of wild birds produced similar results: with the cheaper wild birds removed from the market, the state's bird breeders thrived [7].

While a few spokesmen for the bird-breeding industry have expressed continued opposition to the WBCA, our experience shows that their rhetoric is not matched by individual bird breeders and pet store owners. There is a wide variety and diversity of opinion within the aviculture community about the merits of the Act. Although many of the aviculturists we contacted admitted confusion and misunderstandings about the Act's provisions, almost all expressed strong support for the Act. Specifically, numerous individuals indicated that there was little reason to continue to import birds for the commercial pet market, as the number of birds already in the United States is sufficient to meet demand. In fact, for a number of endangered parrot species, more birds exist in captivity in the United States than remain in the wild.

Risks of Weakening the Wild Bird Conservation Act

Some opponents of the Act have called for significant changes, including a categorical exemption for all captive-bred birds and an elimination of the Act's marking provisions. While these changes are generally couched in terms of reducing the regulatory burden upon law-abiding aviculturists, we believe that any reduction in these essential provisions would be tantamount to a repeal of the Act. A blanket exemption for captive-bred birds would essentially render the Act meaningless because of the difficulties of distinguishing individual birds taken from the wild or bred in captivity.

Currently, the Act places reasonable limits on captive-bred birds, allowing importation for approved cooperative breeding programs in addition to certain species (identified on the agency's "clean list" for which international trade has been determined to be entirely captive bred). In addition, the Act has no significant restrictions on the imports of birds not listed under CITES, whether captive-bred or not.

Similarly, it is essential that the agency administering the Act retain the current, very limited authority to require marking of certain types of birds. This authority has never been invoked and is not likely to be activated anytime soon [8]. Accordingly, the mere possibility of FWS invoking this tool — if needed to address the most serious smuggling problems — should not be a serious point of contention during

this reauthorization process. While no single marking system has yet been perfected, elimination of this important enforcement tool sends the wrong message to smugglers: that Congress and the Fish and Wildlife Service are not serious about cracking down on the illegal bird trade.

International trade in captive-bred birds must be regulated to prevent the laundering of wild-caught birds. Smugglers have been known to raise chicks from eggs taken from the wild, or force closed leg bands over the feet of young wild-caught birds so that they would appear to have been bred in captivity. Further exemptions for captive-bred birds would only fuel this sort of illegal activity, to the detriment of birds in the wild, as well as to most law-abiding aviculturists and pet dealers in the United States, who would once again be forced to compete with a flood of inexpensive wild-caught birds.

Foreign breeding facilities may also export birds to the United States once these regulations have been finalized by the Fish and Wildlife Service. While some critics have accused the Service of delaying these regulations, one must remember that the Service has been charged by Congress with the difficult task of ensuring that these facilities will not merely funnel wild-caught birds into the United States. Until effective regulations are in place, the conservation intent of the Act is far better served by a ban on such exports rather than hastily-prepared, incomplete, or unenforceable regulations. In the decades prior to passage of the WBCA, aviculturists and bird dealers had ample opportunity to develop their own systems to prevent laundering of wild-caught birds by foreign facilities. Their failure to do indicates the difficulty of this task, and underscores the need for the Act.

Another reason for maintaining the Act in its current form is the importance of supporting the many countries that are acting to protect their native wildlife by restricting or banning exports. Nations such as Australia, Guyana, the Philippines, and Zimbabwe need the United States to slow demand in order to be able to enforce their own bird export bans. Similarly, any significant reopening of trade would undermine the enforcement of state laws in New York and New Jersey where pet stores and consumers have learned to profit from bird import bans. A national approach is needed to this national problem, and the Wild Bird Conservation Act strikes the right balance between conservation and legitimate business and consumer interests [9].

Conclusion: Reauthorize the Wild Bird Conservation Act

As the world's largest importer of wild-caught birds, the United States was for years the driving force behind much of the international trade that was decimating populations of wild birds. Belatedly, the United States has been recognized as a world leader in wild bird conservation following the passage of the Wild Bird

Conservation Act. This law ensures that the importation of exotic birds into the United States no longer jeopardizes wild populations or causes the needless deaths of hundreds of thousands of birds. A strong Wild Bird Conservation Act also helps other nations enforce their own bird conservation laws and benefits American aviculturists and pet bird buyers. For these successes to continue, the Act must be reauthorized in its current form. We strongly urge this subcommittee to reauthorize the Wild Bird Conservation Act without any weakening amendments.

Notes

1. T. P. Inskipp, 1990. Overview of the Number and Value of Birds in Trade. Presented at the Symposium on Trade in Wild Birds, Twentieth World Conference of the International Council for Bird Preservation, Hamilton, New Zealand.

2. L. A. Alamia and J. P. O'Niell. The Red-Fronted Macaw: A Conservation Priority (Part 2). A.F.A. Watchbird, July/August 1995.

3. S. Lieberman. Landmark U.S. Legislation Will Conserve Exotic Wild Birds. Endangered Species Technical Bulletin, December 1992.

4. E. H. Bucher, 1992. Sustainable Harvesting of Parrots for Conservation. New World Parrots in Crisis: Solutions from Conservation Biology. Smithsonian Institution Press, Washington, D.C.

5. G. Nilsson, 1985. Importation of Birds into the United States, 1980-1984. Animal Welfare Institute, Washington, D.C.; G. Nilsson, 1989. Importation of Birds into the United States, 1985. Animal Welfare Institute, Washington, D.C.; G. Nilsson, 1990. Importation of Birds into the United States, 1986-1988. Animal Welfare Institute, Washington, D.C.; G. Nilsson, 1992. Importation of Birds into the United States, 1989. Defenders of Wildlife, Washington, D.C.

6. Supra, note 2.

7. B. Connor. Testimony on the Wild Bird Conservation Act of 1992 before the House Subcommittees on Fisheries and Wildlife Conservation and the Environment and Trade. 16 June 1992.

8. J. Doggett, Chief, FWS Law Enforcement, pers. comm., 12 September 1995.

9. L. Simon. New York's Crusade for Exotic Birds. Defenders, November/December 1990.

Martin Muschinske
POB 718
Jamul, CA 91935

September 18, 1995

Honerable Don Young
Chairman of the House
subcommittee on Fiseries,
Wildlife and Oceans
United States House of
Representatives
Washington, D.C.

Attn. Mr Harry Burroughs, Staff Director

Dear Mr. Young:

I appreciate the opportunity your committee is giving citizens to be heard on the issues involving the Wild Bird Conservation Act (WBCA) regulations. My wife and I are Environmental Specialists and work for the Department of Fish and Game as well as aviculturists. As professionals in the field of Conservation Biology we are concerned with the tendency for some, who purport to be, "environmentalists" to embrace old paradigms because, like old jeans they are comfortable.

On September 21, 1994, The National Academy of Sciences launched a three year, multimillion-dollar project to explore environmental and development concerns. Among other issues the project, called "Global Commons," will investigate the problems of species extinction and tropical deforestation, population growth and land use. The project will reexamine these problems and may result is a new paradigm.

We are all aware that the problems addressed by "Global Commons" are exacerbated by population growth and wanton exploitation of natural resources. Environmental degradation has been the hallmark of economic development and the destruction of natural habitats was just assumed to be the by-product of civilization.

To the pioneers, dwarfed by the expanse of the natural world, and its seemingly endless bounty, nature was infinite and inexhaustible. To astronauts peering from spacecraft at the "blue marble" earth engulfed by the expanse of the universe, the world seems small and they can see that natural resources are finite and exhaustible.

From each perspective the pioneer and the astronaut have an appropriate understanding of the world. It is a contradiction or an enigma, only because each of us sees only a "snapshot in time" of the natural wonder called earth. We act based on our perceptions unfortunately humans make decisions often based on limited or distorted information, not because we are base or evil but because we tend to slip into a comfort zone that makes us feel good.

The Wild Bird Conservation Act (WBCA), is based on limited and distorted information, as a result inaccurate opinions and poorly understood assumptions were used to justify outrageous regulations which, in the long run will be contradictory to the aim and goals of wild bird conservation. The way in which the regulations are being written and promulgated by the Fish and Wildlife Service, we will see the rapid extinction of many Central and South American birds because of the onerous provisions of the WBCA and the bureaucratic quagmire that they create.

The WBCA stifles the activities of aviculturists who help protect wild bird populations in two ways: 1. captive breeding of birds for the pet trade takes much of the economic incentive out of smuggling birds into the United States and 2. private aviculturists who are active in conservation breeding programs, which will provide a valuable resource for future reintroduction efforts.

The World Wildlife Fund (WWF) publication, International Wildlife Trade, a CITES Source book, recognizes the importance of captive-bred species as ". . . they enter trade legally and are usually healthier and tamer than their wild caught counterparts." The book goes on to detail that presently the only two parrots not regulated by CITES are commonly bred (by private aviculturists) and they cite four more species are being bred in significant numbers that will deter smuggling (in my opinion there are dozens of species of birds being domestically bred that deter smuggling).

In his book, Last Animals at the Zoo, that deals with strategies for stopping mass extinction, Mr. Colin Tudge, details the importance of the role of private aviculturists in conservation breeding programs, in addition he laments the bureaucratic nightmare that sometimes accompanies the efforts of conservation breeding programs, even before the present, WBCA Regulations! The WBCA regulations are unreasonably complex and do not contribute to the conservation of wild birds.

In closing I wish to quote from Mr. Bruce Alberts, president of the National Academy of Sciences, "Given time, political will and the intelligent use of science, human ingenuity can find substitutes for wasteful practices, improve the human condition and the preserve the earth's natural resources." The subcommittee on Fisheries, Wildlife and Oceans has an opportunity to display the political will, recognize the need for intellegent science, and use the ingenuity of private aviculturists to help preserve wild bird populations by removing the wasteful bureacracy of the WBCA regulations. Recognize the valuable contribution private aviculturists have made to the preservation of wild birds and revise the regulations to incorporate the recommendations provided by the position of the American Federation of Aviculture.

Sincerely

Martin Muschinske

WILD BIRD CONSERVATION ACT
OVERSIGHT HEARINGS

September 28, 1995

Subcommittee on Fisheries, Wildlife and Oceans
U.S. House of Representatives

Supplemental Testimony of Frank M. Bond, General Counsel
North American Falconers Association

Mr. Chairman and members of the Committee, I appreciated the opportunity to appear before you on September 28, 1995 to present testimony. You told those who testified that the record for testimony would be held open for 30 days to receive additional testimony. For that purpose, I add this Supplemental Testimony to my testimony and respectfully request that it be incorporated by reference for all purposes.

Amendments

1. I request that you adopt the following amendment which would substantially alleviate some small parts of the problems of those citizens who deal with raptors by exempting the family of Falconiformes.

To Section 104(2)(B)(ii), compiled at 16 USC 4903(2)(B)(ii), amend the WBCA as follows:

. . .

(ii) birds in the following families: **Falconiformes**, Phasianidac, . . .

2. Further, the Committee may wish to consider correcting a bill drafting error it made in the original enactment of the WBCA. Section 111, Prohibited Acts, compiled at 16 USC 4910, in subsection (a), there appear two subparagraphs: subparagraph (1), In general; and, subparagraph (2), Limitation. There does not appear to be a subparagraph (3). Yet at

Section 113(a)(1)(B), compiled at 16 USC 4912 (a)(1)(B), and Section 113(a)(2)(B), compiled at 16 USC 4912(a)(2)(B), there appears references to violations of prohibitions of Section 4910(a)(3). No such prohibition was enacted.

To correct the drafting error, the Committee should amend the act to strike Sections 4912(a)(1)(B) and 4912(a)(2)(B).

WBCA and Raptor Conservation

I made reference at the public hearing that the WBCA, rather than promote conservation, may actually inhibit raptor conservation. I include for your consideration two letters written by Dr. William Burnham on April 25, 1995 and May 12, 1994 regarding the raptor conservation work undertaken by The Peregrine Fund, which is adversely affected by the WBCA and its regulations. The letters were written in response to a call for comments on proposed WBCA regulations. I enclose those letters and request that they be made a part of my supplemental testimony.

Conclusion

We appreciate the opportunity to present testimony and to have appeared at the hearing. Based on the validity of our comments, we sincerely hope that you will agree that it was never intended that the WBCA inhibit legitimate uses and conservation of raptors, and therefore, that you will exempt the family Falconiformes from the WBCA.

fmb7\10762.d

The Peregrine Fund
WORLD CENTER FOR BIRDS OF PREY
Focusing on birds for conservation of nature.
25 YEARS 1970–1995

April 25, 1995

Mollie Beattie
Director
U. S. Fish and Wildlife Service
Room 3256
1849 C Street NW
Washington, D.C. 20240

Dear Director Beattie:

With this letter The Peregrine Fund wishes to provide the U. S. Fish and Wildlife Service with substantive comment and specific suggestions regarding the Wild Bird Conservation Act (WBCA).

The Peregrine Fund is a non-profit conservation organization working nationally and internationally to conserve nature by focusing on birds of prey. We are best known for our species restoration projects involving the captive propagation and release of raptors to restore extirpated populations and bolster remnant populations. Nationally, we are involved with the restoration of the Peregrine Falcon, Aplomado Falcon, California Condor, the 'Alala, and other Hawaiian forest birds. Internationally, we are involved in species propagation and restoration efforts with the Mauritius Kestrel, Philippine Eagle, Harpy Eagle, and Orange-breasted Falcon. Several of these efforts are approaching a successful conclusion while others are just beginning.

Under the Convention on the International Trade in Endangered Species (CITES), Endangered Species Act (ESA), and the Migratory Bird Treaty Act (MBTA), we continue to import and export live raptors for the purposes of restoring and enhancing wild populations. Working under the restrictions imposed by these acts and treaties has been problematic at best. The average time required to obtain permits is eight months. These delays are apparently unavoidable and have contributed to the death of wildlife and the relocation of conservation projects outside of the United States.

5666 West Flying Hawk Lane • Boise, Idaho 83709 • United States of America

Since the implementation of the WBCA, The Peregrine Fund has been attempting to import a non-releasable Harpy Eagle as part of an on-going species restoration program and has found that this new addition to the permit process has made an already unworkably ponderous and redundant system even worse.

I provide our experience with this import request as an example of what this new legislation has required of both Service and The Peregrine Fund staff. In January of 1994 we encountered a non-releasable captive Harpy Eagle in Venezuela during the course of our on-going field research on this species in that country. Both the government of Venezuela and The Peregrine Fund decided that the best use of this individual would be as part of the captive breeding program at our facility in Idaho. The Peregrine Fund submitted an application for a CITES import permit to the Office of Management Authority on February 8, 1994. We were notified that under the newly adopted WBCA, we would be required to form a "Cooperative Breeding Consortium" prior to being able to submit a request for a CITES import permit. Following the instructions of the Office of Management Authority, The Peregrine Fund submitted applications for a Cooperative Breeding Program under the WBCA. This request was approved (PRT-CB003) on September 6, 1994, two days short of seven months. At this point we were able to re-activate our request for a CITES import permit which was issued (PRT-787554) on January 17, 1995, fully eleven months and nine days from the date when application was submitted. I would also add that this is the seventh such permit request submitted by the same applicant, for the same species, and for the same conservation program.

Clearly the intent of the WBCA was to control the large scale importation of wild birds into the United States, principally psittacines, that were destined for the pet trade. When this act was first circulated for public comment we were generally in agreement with its stated intent, that being the control of wild birds being imported for the pet trade. However, upon implementation the WBCA has gone far beyond its original stated intent of controlling the importation of wild birds for the pet trade, but now includes <u>all</u> wild birds imported for <u>any</u> reason, including legitimate conservation.

On two different occasions, prior to the implementation of the WBCA, The Peregrine Fund has provided written comment (copy enclosed) to the USFWS recommending that <u>all</u> Falconiformes be excluded form the provisions of the WBCA on the rational that (1) raptors have never been included in any pet trade, (2) raptors are already subject to the strictest control of any bird group in this country and can only be possessed under stringent federal and state permit, (3) raptors are already adequately protected under CITES, ESA, and MBTA. (4) the WBCA represents an additional permitting hurdle for both applicants and service personnel, seriously interfering with our ability as a nation to contribute to raptor conservation on an international level.

Mollie Beattie

The additional permitting requirements resulting from the WBCA clearly add another level of complication to a system that already does not work well. The cost in time, money, and frustration for both the U. S. Fish and Wildlife Service and the applicant are significant and without justification. More importantly, the WBCA, as it is currently being implemented, represents a negative impact upon the very resource that we are both trying to conserve.

Once again we request that all Falconiformes be excluded from the provisions of the WBCA as has already been provided for ten other families.

Thank you for our consideration.

Sincerely yours,

Bill Burnham

William Burnham, Ph.D.
President

WABpwb

The Peregrine Fund
WORLD CENTER FOR BIRDS OF PREY
Focusing on birds of prey for conservation of nature.

May 12, 1994

Director, U. S. Fish and Wildlife Service
1849 C Street NW
420 ARLSQ
Washington, DC 20240

Re: Comment, Proposed Rule; Importation of Exotic Wild Birds to the United States; Proposed Rule Implementing the WBCA of 1992; Federal Resistor, Vol. 59, pp. 12784 et seq., March 17, 1994

Dear Madam:

Thank you for the opportunity to comment on the above referenced proposed regulations. Our recommendation is simple - exclude all Falconiformes from the provisions of the Wild Bird Protection Act (WBCA).

As an organization we base the recommendation on almost 25 years of experience nationally and internationally, primarily in research and conservation of birds of prey and their habitats. We have cooperated on projects in over 40 countries on six continents. Personally our combined experience with raptor research and conservation internationally exceeds sixty years.

Import of raptors into the United States does not jeopardize any species or population internationally. The WBCA provides no benefit to Falconiformes, in fact it does just the opposite by causing those working to conserve raptors to waste their time dealing with yet another set of regulations and application procedures. CITES, the Migratory Bird Treaty Act, and the Endangered Species Act already provide more than adequate protection and regulation for Falconiformes.

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Having Falconiformes and other groups of avian species that biologically are not threatened by commercial import to the United States included in the WBCA discourages research and conservation on those species. We are required to expend organizational and personal resources (time, money, and personnel) uselessly to comply with overly complex regulations when those resources are desperately needed to conserve the world's biological diversity.

Thank you for your consideration.

Sincerely yours,

Bill Burnham

William Burnham, Ph.D.
President

Tom J. Cade

Tom J. Cade, Ph.D.
Founding Chairman

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

In Reply Refer To:
FWS/OMA 2-06r

To whom it may concern:

Enclosed you will find a copy of two recently published Federal Register notices that relate to the implementation by the U.S. Fish and Wildlife Service of the Wild Bird Conservation Act of 1992 (WBCA). The Office of Management Authority (OMA) has primary responsibility for implementation of the WBCA, in cooperation with the Division of Law Enforcement and the Office of Scientific Authority.

The first notice, published on August 10, 1993, announced species for which the importation quota pursuant to the WBCA has been met. The second notice, published on August 12, 1993, is a notice of proposed rulemaking that proposes regulations implementing the prohibitions and requirements stipulated in the WBCA and provides permit requirements and procedures for some allowed exemptions. Please note that the second notice has a 30-day comment period; comments must be received in this office by September 13, 1993, in order to be considered in the formulation of a final rule.

Effective October 22, 1993, imports of all CITES-listed birds are prohibited, except for species included in an approved list, or for which an import permit has been issued. The Service will publish a proposed rulemaking establishing the approved list in a separate notice in the very near future.

If you have any questions, please feel free to contact Dr. Susan Lieberman, CITES Policy Specialist in OMA, at (703) 358-2093.

Sincerely,

for Kenneth Stansell

Marshall Jones, Chief
Office of Management Authority

Enclosures

WILDLIFE CONSERVATION SOCIETY
[illegible]

26 September 1995

Representative Jim Saxton, Chair
Subcommittee on Fisheries, Wildlife, and Oceans
U.S. House of Representatives
339 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Chairman,

This letter is to urge you and your fellow committee members to fully support the reauthorization of the U.S. Wild Bird Conservation Act (WBCA) in its entirety. This bill has been successful in stopping the U.S. from providing incentives that in the past led to cruel, irrational, and unsustainable "mining" of large parrots and macaws from tropical rain forests and savannahs of the globe. The bill also has provided a tremendous positive stimulus to responsible breeders and ranchers of exotic birds, both in the United States and abroad.

When done properly, such captive breeding and wild ranching can provide sustainable and humane sources of exotic birds for pet owners and hobbiest bird breeders. Responsible bird breeding is harmless to wild populations of exotic species, while sustainable wild ranching could actually be very beneficial to wild populations by providing wild birds with additional nesting sites and planted food. Furthermore, such wild ranching operations would hire forest guards to protect resident wild birds (most valuable parrots are resident year round) from meat or feather hunters and from roving trappers.

Any weakening of the bill's carefully-thought-out provisions likely would open loopholes for illegal importing into the U.S. that would produce incentive to "launder" wild caught adult birds, passing them off as legitimate captive bred birds. Moreover, such dangerous loopholes would also lead to the unsustainable destruction of wild nest trees for one-time harvests of young birds on public lands or on lands owned by distant, absentee investors or companies. The WBCA is the best legislative tool yet for encouraging tropical countries to rethink, reorganize, and clean up their means of production and export of exotic birds.

WILDLIFE CONSERVATION SOCIETY

I have read carefully and approve entirely of the existing language in the section of the WBCA (Section 107) that deals with how a foreign captive breeding facility can qualify to export captive bred birds to the U.S. That section is perfect the way it is. It is not especially lenient on foreign facilities, and does not give them much benefit of the doubt, but given the number of phony captive breeding facilities in the tropical countries (including a number that I personally have investigated), it is entirely appropriate that this section remain strong and set high standards. Keeping this section strong is what generates incentive within tropical range countries for local governments and land owners to experiment with sustainable, humane methods of parrot ranching that will help rather than harm wild populations. In fact, such sustainable wild ranching would provide incentive for parrot ranchers to protect wild habitat and to bring adult breeding populations to their maximum wild carrying capacity (just as cattle ranchers try to increase their herd of valuable, reproducing females).

Softening section 107 would only open loopholes for unsustainably caught wild birds to come into the U.S. under the guise of "captive bred". Opening such loopholes would allow the irresponsible, cruel wholesale parrot exporters from the tropical countries and the ten large importers in the U.S. to return to the destructive, immoral "business as usual" of trafficking birds from wherever and whomever shows up on the doorstep with a cage jammed with a mixture of stressed, sick and less sick parrots.

On another specific issue, I notice that some irresponsible people who call themselves "aviculturists" are claiming erroneously that there are identification systems in use within the community of American bird hobbiests that can readily distinguish captive-bred and hatched birds from birds found in the wild population. If they are referring to closed bands put on babies soon after hatching or microchipping baby birds soon after hatching (by injecting a small, electronically-readable microchip in the breast muscle of the bird), then they are misleading you. In fact, both of these techniques can be carried out in the wild on illegally-caught wild baby birds, which then can be passed off as captive-bred birds. If a reliable independent authority (either a government or "non-avicultural" conservation group) controlled the production, distribution, and oversight of non-counterfeitable microchips with unique, non-copiable codes, then it might be possible to design a system that could eliminate cheating. But as of yet, such a system does not exist and, to my knowledge, has not even been proposed.

[illegible] BOULEVARD, BRONX, NEW YORK [illegible]

WILDLIFE CONSERVATION PROGRAMS IN 45 NATIONS: BRONX ZOO WILDLIFE CONSERVATION PARK, [illegible] CENTRAL PARK, QUEENS, AND PROSPECT PARK WILDLIFE CENTER [illegible] CATHERINE WILDLIFE SURVIVAL CENTER

CONSERVATION [illegible]

WILDLIFE CONSERVATION SOCIETY

Prior to the act, there was no incentive for a producer country in the tropics to encourage careful, thoughtful production of ranched wild birds. Thus, prior to the act, no tropical land owner had any reason for developing responsible parrot ranching, which might include hanging extra nest boxes and taking, raising, and selling only the last hatched or runt chicks from these boxes. Rather, prior to the WBCA, all parrots exported from tropical countries were mined in a cruel, nonsustainable manner that led to heavy post-trapping mortality and the inevitable "tragedy-of-the-commons" style destruction of wild parrot populations by irresponsible, roving trappers.

Now, for the first time, tropical peoples who own and manage their rain forests (such as the 11,000 Indians and rain forest colonists that I have helped land title in an area the size of Connecticut in Peru over the past ten years--see 5 Dec 1994 issue of TIME magazine) have a reason and incentive to consider sustainable, humane parrot ranching in wild rainforest habitat as a way to add value to their standing forest. In this way, they may find that parrot ranching that follows the rules of the WBCA may provide them with a fun and sustainable income source from intact rain forest (a habitat type that may be exhuberant and biologically diverse, but unfortunately is generally quite inedible and unmarketable unless cleared and replaced by coffee and chocolate plantations, which are only partially sustainable in poor Amazonian soils).

As far as the complaints lodged about the WBCA by people who call themselves "aviculturists", these people traditionally always have shown the greatest concern about maintaining unlimited access to low-priced birds, from whatever source. For them, collecting and breeding birds is an obsession that knows few limits. They claim to be concerned about the conservation of these species in the wild, but in fact they normally donate little time or cash to field conservation efforts (which for 98% of endangered bird species are much more cost effective dollar for dollar than are captive breeding conservation efforts). Nowadays, many of the most aggressive "aviculturists" devote considerable resources and time to lobbying for changes to the WBCA that would allow easy import of so-called "captive bred" birds produced at foreign facilities. I know from my personal experience of 20 years as a research scientist in Peru, Bolivia, Brazil, and Paraguay, that many, if not most or all, facilities in tropical countries that claim to be producing and selling only captive bred birds are actually just laundering illegally caught wild birds. Thus, the U.S. Fish and Wildlife Service is quite correct to be very suspicious of any foreign facilities that claim to be squeaky clean.

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WILDLIFE CONSERVATION PROGRAMS IN 65 NATIONS: BRONX ZOO/WILDLIFE CONSERVATION PARK; AQUARIUM FOR WILDLIFE CONSERVATION;
CENTRAL PARK ZOO; PROSPECT PARK WILDLIFE CENTER; FRED A. PREVOST WILDLIFE SURVIVAL CENTER

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The only way to get the incentive system right and thereby encourage the development of sustainable and humane methods of captive breeding and wild ranching of parrots is to keep the WBCA strong and intact. Anything else will simply play into the hands of those whose principal (though often hidden) agenda is to maintain an unlimited flow of inexpensive parrots to satisfy their mania for parrot collecting and trading. It is important for you and your colleagues to see through the smokescreen of conservation rhetoric emanating from some "avicultural" organizations, for study after study has demonstrated that the most cost effective way to conserve wild species of parrots or most other large vertebrates is not through captive breeding in zoos and in private collections, but rather through measures to protect wild populations together with the habitat on which they depend.

Thank you for your consideration. I would be happy to answer any questions you may have about the excellent features of the Wild Bird Conservation Act.

Sincerely,

Charles A. Munn

Charles A. Munn, Ph.D.
Senior Conservation Zoologist

fax in the U.S. 215 923 5535, tel 3641
tel/fax in Peru (where I am until I return to U.S. on 5 Nov 1995): 011 51 14 498569 or 011 51 14 307170.

Benny J. Gallaway, Ph.D.
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26 October 1995

The Honorable Jim Saxton
Chairman, Subcommittee on Fisheries
Wildlife & Oceans
Committee on Resources
U.S. House of Representatives
H1-805 O'Neill House Office Building
Washington, D.C. 20515

Dear Congressman Saxton:

I wish to provide comment on the written testimony of Dr. S.R. Beissinger presented to the Subcommittee on Fisheries, Wildlife and Oceans on 28 September 1995 concerning the reauthorization of the Wild Bird Conservation Act of 1992. The part I wish to address is found on pages 5 and 6 of his testimony under the heading **"Captive Breeders Do Not Need Continued Access to Wild Stocks"**. In that section, he asserts that, with cooperative management, only 50 to 75 birds per species are needed to constitute a viable gene pool for a captive population. This statement is predicated on the stated premise that limited genetic diversity is required for maintaining permanent captive populations not used for reintroduction to the wild. This premise acknowledges that an unstated amount of genetic diversity will be lost, but in his view this will not affect the ability of aviculturists to continue to produce birds, albeit with ever-decreasing genetic diversity and resemblance to the wild stock. We disagree. Within a very short time, the captive populations will not be valuable as a conservation hedge to extinction, even as a last resort. Under Dr. Beissinger's scenario, the genetic fitness of the captive population would decline to a status where the only value of the birds produced would be to supply the domestic pet trade. Further, the captive population would be doomed to ultimate extinction without extraordinary genetic management at a level which has heretofore not been achieved (due to rapid acceleration of inbreeding coefficients) by any sector, public or private. The genetic tools and technology required to achieve the level of management that is suggested are only recently emerging.

The mission statement of the American Federation of Aviculture (AFA) is **"To preserve avian species on a worldwide basis".** To achieve this mission requires that we have to maintain genetic diversity in our captive populations in order to preserve the fitness of species in captivity as close as possible to their wild counterparts. To do otherwise would foreclose future conservation options. Zoological Parks have the same mission regarding captive populations, but have limited space and funding to accommodate all the species needing a captive-population hedge against extinction. Zoological institutions are often referred to as being analogous to "Noah's Ark". However, there is concern about how many and which species can be accommodated in the Ark, and how many individuals of each species will be necessary to survive a trip of unknown—but likely very long—duration. The private sector can expand the Ark to a "fleet" allowing for more species and greater survival rates.

Given the fact that preservation of genetic diversity of birds in private-sector collections is important, still leaves the unanswered question of how many birds of each species are needed? As must be well-known to Dr. Beissinger, the concept that a nucleus population of 50 to 75 birds can be managed to maintain the genetic diversity of a captive population over the long-term has been discredited. In a 1993 paper in Zoo Biology (12), pages 535 to 548, Kevin Willis and Robert J. Wiese evaluated the premise that a small nucleus population (50 to 75 individuals) supplemented by periodic importation of wild-caught animals could be used to maintain the same amount of gene diversity as larger populations that do not import wild-caught animals. Assuming a "perfect population" regarding breeding population size, sex ratios, productivity etc. (all of which would maximize retention of gene diversity) mathematical models were used to conduct a comparative analysis. Even for this unrealistic "perfect population" the results were staggering. For populations of 50 to 100, 10 to 20 times more wild-caught animals were required for each generation than had been suggested based upon untested theory. The results showed that if the 210 species recommended to be managed in this fashion were established with total captive population sizes of 100 each, then 5,040 new wild-caught animals would have to be imported **each generation** to maintain 98% of the original gene diversity. The authors concluded that, "clearly, this approach is not practical for application on a large scale". AFA concurs with this and with the four conclusions of the paper:

" 1. Regular importation of wild-caught animals will allow continued maintenance of gene diversity in captive populations.

2. The Nucleus I population concept, as defined and promoted by the CBSG, would require 10-20 times greater importation rates than indicated by the CBSG. This factor makes wide

use of the Nucleus I concept an inefficient strategy for conservation of gene diversity.

3. Small captive populations can be effective for some conservation goals but are not appropriate for long-term retention of gene diversity.

4. Regional taxon advisory groups developing regional collection plans should not rely on a single "blanket" strategy (e.g., 90% gene diversity/100 years) for all captive breeding programs, but rather, use a number of different strategies based on the most effective use of captive space for species conservation."

In our verbal testimony before the Committee, AFA suggested that 1,000 individuals was more realistic than 50 to 75 as the minimum captive population size necessary to maintain genetic diversity. The basis for this number comes from the 1995 National Research Council (NRC) report on Science and the Endangered Species Act, pages 8 and 9:

> "If the members of the population do not mate with each other at random (the case for most natural populations), then the effect of small size on loss of genetic variation is made more severe; the population is said to have a smaller *effective size* than its true size. Populations with long-term mean sizes greater than approximately 1,000 breeding adults can be viewed as genetically secure; any further increase in size would be unlikely to increase the amount of adaptive variation in a population. If the effective population size is substantially smaller than actual population size, this conclusion can translate into a goal for survival for many species of maintaining populations with more than a thousand mature individuals per generation, perhaps several thousand in some cases. An appropriate, specific estimate of the number of individuals needed for long--term survival of any particular population must be based on knowledge of the population's breeding structure and ecology. If information on that species is lacking, information about a related species might be useful."

The key point we wish to make is not that the minimum population size should be 1,000 instead of 50, but rather that the use of blanket numbers like these should be avoided in the regulations. Such requirements can lead to unexpected foreclosures of future conservation options. However, AFA recognizes that a much better job of genetic management can be accomplished than is presently the case, and that much can be done with less than optimum population sizes, or less than desired numbers of new founders in the form of wild-caught exotic birds. One key to reducing the need for new wild-caught

founders is that American aviculturists have access to captive-bred stock in other countries. This is one basis for our insistence that incentives be provided for international trade in captive-bred species. The emerging DNA technology is already able to provide insurance against laundering, which is only a concern for a relatively small number of high-profile, problematic species. The need for such insurance would better be addressed on a permit-by-permit basis rather than being incorporated as a part of the general regulations.

Dr. Beissinger has long advocated that "when implemented properly and conservatively, sustainable harvesting of exotic birds could provide advantages for conservationists, aviculturists, the pet industry and local peoples" (see page 6 of his written testimony). To accomplish such a sustainable harvesting goal, however, requires that a market exists for the target species. Maintaining the genetic diversity of captive populations is one of the few justifications that can be offered regarding harvest of wild exotic birds for international trade. We hope that Congress, in its review of the present WBCA, will make the changes necessary to assure the continued and healthy existence of America's aviculture.

Thank you for your consideration of my comments.

Sincerely
AMERICAN FEDERATION OF AVICULTURE

Benny J. Gallaway, Ph.D.
Director of Conservation

BJG/je

cc: Dr. S. R. Beissinger
Ms. Laurella Desborough
Mr. Bob Berry

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October 27, 1995

Congressman Jim Saxton, Chairman
Subcommittee on Fisheries, Wildlife and Oceans
U. S. House of Representatives
H1-805 O'Neill House Office Building
Washington, D.C. 20515

Dear Congressman Saxton:

On 28 September 1995 The Humane Society of the United States (HSUS) presented testimony on behalf of our 2.3 million members, Defenders of Wildlife, Environmental Investigation Agency, Society for Animal Protective Legislation and other conservation and animal protection organizations before the House Resources Subcommittee on Fisheries, Wildlife and Oceans (Subcommittee) on the U.S. Wild Bird Conservation Act (Act). We strongly support this law, which has made the United States a leader in efforts to protect exotic wild birds, and urge the Subcommittee to reauthorize the Act without any language changes.

It was evident during the hearing that almost all of the concerns relating to the Act could be addressed through increased funding. An increase in funding would enable the U.S. Fish and Wildlife Service (Service) to issue permits, implement regulations and address constituent concerns in a more expeditious and responsive manner. Simplification of the permitting process through changes in the language of the Act is not necessary. When deliberating on the most appropriate course of action in terms of the reauthorization, we urge the Subcommittee to pursue this route, which is the only option that received the support of all groups testifying at the hearing.

Our written testimony has addressed already most of the proposed changes to the Wild Bird Conservation Act which were presented at the 28 September hearing. Specifically, any weakening of the requirements for importing captive-bred birds from overseas breeding facilities or the removal of language granting the Secretary of the Interior the authority to impose limited marking programs would compromise the intent of the Act and severely limit the Services' ability to curtail smuggling. The request that captive-bred birds be exempted entirely from the provisions of the Act

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is wholly unreasonable. Aviculturists and conservationists agree that there is no practical method for distinguishing a captive-bred bird from a wild-caught bird. Therefore, should such provisions be implemented, birds that were removed from the wild could easily be smuggled into the U.S. under the false claim that they were bred in captivity. Operation Renegade--an ongoing U.S. Fish and Wildlife Service investigation into the trade in exotic birds--reveals that smugglers commonly disguise illegal, wild birds as captive bred in order to access the United States pet market.

Contrary to statements made during the oversight hearing, captive-bred birds are now entering the United States. The Act contains several mechanisms to ensure the continuation of such imports, such as the "clean list" in Section 106 and the exemptions outlined in Section 112. In addition, the Act has no effect upon the importation of captive-bred birds of species that are not listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Admittedly, the Service does need to finalize the regulations for the approval of foreign captive breeding facilities, but until these regulations are complete, aviculturists can import captive-bred birds through the above mechanisms.

Listed below are additional proposed changes to the Act that surfaced during the oversight hearing, followed by our rebuttals. Those within the animal protection and conservation community that are truly interested in the conservation of exotic wild birds oppose these changes to the Act. We compromised a great deal during the negotiation process leading up to the implementation of the Act and we would find any further weakening of its provisions completely unacceptable.

Proposed Change: Amend the Wild Bird Conservation Act so that species listed on Appendix III of CITES are only included within the scope of the Act for those countries unilaterally listing the species.

Limiting the current scope of the moratorium upon importation of Appendix III bird species would violate the intent of the Act by significantly reducing protections for hundreds of thousands of wild birds and by promoting smuggling. Section 105(c) of the Act states that "the importation of any exotic bird of a species that is listed in any Appendix to the Convention is prohibited." The American Federation of Aviculture (AFA), Pet Industry Joint Advisory Council (PIJAC) and World Wildlife Fund (WWF) have requested that this language be "clarified", suggesting that the import moratorium for Appendix III birds should be limited to those birds originating from countries which have unilaterally listed the species on Appendix III. Yet the U.S. District Court for the District of Columbia already "clarified" this issue in 1994 with its ruling in The Humane Society of the United States, et al. v. Bruce H. Babbitt et al. The Court found that the import prohibitions in the Act are stated in a clear and unambiguous manner, and that the Act restricts the importation of any species listed on any Appendix to CITES, regardless of the country of origin.

The AFA, WWF and PIJAC argue that not all individuals of species listed on Appendix III are regulated by CITES, and contend that the scope of the Act's import prohibitions for Appendix III species should be limited accordingly. However, all individuals of species listed on Appendix III are subject to CITES controls, regardless of the country of origin. All individuals of species included on Appendix III must be accompanied by a certificate of origin at the time of import.

Easing the current import prohibitions on Appendix III birds in the manner that the AFA, PIJAC and WWF request would strip protections from hundreds of thousands of birds. Species that are subject to high levels of trade would be excluded from the scope of the Wild Bird Conservation Act. Between 1986 and 1989 more than 150,000 birds of species listed on Appendix III were imported into the United States. The vast majority of these birds were finches, which frequently suffer exceptionally high mortality during transport. In 1989, more than 43,000 finches died during transport to the United States and quarantine, and in March 1991, more than 10,000 finches died during a single shipment to the United States. Limiting the prohibition on importation of Appendix III birds would also undermine the efforts of listing countries such as Ghana to protect their indigenous birds. Wild birds would be illegally caught in countries prohibiting export, smuggled into neighboring countries which allow exportation, and then "laundered" into the legal trade. The Act's existing prohibition on the importation of all birds listed Appendix III must be maintained.

Proposed Change: Amend Section 106 to allow the "List of Approved Species" to include all species which are regularly bred in captivity, regardless of whether there is illegal trade in wild-caught individuals of the species.

Expanding the Section 106 exemption to cover all captive-bred birds regardless of whether any wild-caught birds of the same species are being traded illegally would undermine the Act and serve to promote the smuggling of exempted species. Currently, species that are regularly bred in captivity and for which no wild-caught individuals of the species are in trade, may be included on the Act's approved list. Trade in these species is therefore not subject to regulation under the Act. The AFA is requesting that requirements for inclusion on the approved list be modified so that any species which is commonly bred in captivity may be placed on the approved list, even if wild-caught individuals of the species continue to be illegally traded. The Service specifically rejected this proposal when formulating their final regulations in 1992, citing existing problems in adequate regulatory and enforcement mechanisms in many countries of origin for species which are subject to illegal trade. According to the Service, this change to the approval criteria would undermine the conservation efforts of range countries, and therefore violates the intent of Congress and the purpose of the Act (59 FR 62257). Exempting species for which illegal trade continues would remove any legal means of ensuring that imported birds are not smuggled, wild-caught individuals. Amending the Act in this manner would therefore legalize the importation of smuggled wild-caught birds. If this proposed change were accepted, the importation of smuggled birds would essentially be legalized.

Suggestion: **Amend regulations implementing Section 112(4) to eliminate requirements that participants in a cooperative breeding program be required to track progeny.**

Exempting cooperative breeding programs from tracking and recordkeeping requirements, as suggested by the AFA and PIJAC, would significantly undermine the purpose of Section 112 and the Act as a whole. Pursuant to this section, the Service must ensure that birds imported for scientific research, zoological breeding or display, cooperative breeding programs or as personal pets are used exclusively for the purpose for which the permit was issued. In the House Committee Report on the Wild Bird Conservation Act, Congress indicated that applicants for permits for cooperative breeding programs must be able to "demonstrate that he or she is capable and fully intends to keep track of the whereabouts of the offspring of birds that are imported under this exemption." Therefore, the regulations adopted under Section 112 require those applying for the approval of a cooperative breeding program to have in place a system of recordkeeping and tracking of imported birds and their progeny. These regulations neither dictate a specific tracking system or technology, nor do they require that the tracking data be forwarded to the Service at any time. These regulations are essential to prevent the utilization of imported birds for purposes other than those authorized by the permit, and should not be eliminated.

Suggestion: **Remove Section 107 of the Act, which requires that all birds exported from an approved foreign breeding facility actually be bred at that facility.**

Eliminating or weakening Section 107 as recommended by the Association of Avian Veterinarians (AAV) would increase significantly the threat of illegal wild-caught birds entering the United States under the false claim that they are captive-bred. The Act allows the importation of otherwise prohibited bird species from qualified foreign captive breeding facilities. To ensure that these birds are indeed captive bred and not wild caught, Section 107(b) specifies six criteria for the determination of "qualified" foreign breeding facilities, one of which requires that all birds exported from the facility be bred at that facility. These requirements prevent birds of unknown origin, especially illegal, wild-caught birds, from entering the legal trade. Without these requirements, wild-caught birds could easily be laundered as captive bred. Section 107 is vital to ensuring that the trade in captive-bred exotic birds does not become a drain on wild populations, and should not be weakened or eliminated.

Proposed Change: **Amend Section 104 to exempt all Falconiformes from the Wild Bird Conservation Act.**

The North American Falconers Association proposes that all raptors be exempted from the Act because raptor imports are already subject to regulation under the Endangered Species Act, the Migratory Bird Treaty Act and CITES. In addition, they claim that wild populations are already sufficiently protected under these laws.

Falconiformes must continue to receive protection under the Wild Bird Conservation Act because wild individuals remain in trade. Consumer demand for these species has proven to result in illegal trade. Also, wild individuals have been laundered as having been bred in captivity. Other avian species subject to regulation under the Act are also regulated by several federal laws. Falconiformes must remain regulated by the Act because other federal laws do not adequately protect wild populations from unsustainable trade.

Proposed Change: Add a section to the Act stipulating that any offspring born in the United States of illegally acquired exotic birds be deemed legal.

This proposal, put forth by the AFA, would promote smuggling of wild exotic birds for private collections. Some of the most endangered exotic bird species were never legally exported from their countries of origin, so the owners of these birds are known to have participated in or supported illegal activities. Legalizing the offspring of these birds would allow these individuals to openly obtain notoriety for illegally possessing rare and endangered species. It would also allow them to profit significantly from selling these illegal birds or their offspring. The legalization of offspring of illegally acquired birds would increase the smuggling of wild individuals of these species in order to augment parental stock for so-called "legal" production. For many rare and endangered species, such an increase in illegal trade could result in extinction.

We are confident that the Subcommittee will recognize that these amendments, if accepted, would severely undermine the ability of the Act to achieve its intended purpose of promoting the conservation of exotic birds in the wild. The requirements which the AFA, PIJAC, WWF and AAV are suggesting be weakened or eliminated were included specifically to curtail the likelihood of wild exotic birds being laundered into the United States under the claim that they are captive bred. To ensure the continued success of the Act, it must be reauthorized without any weakening amendments.

Sincerely,

John W. Grandy
Vice-President
Wildlife and Habitat Protection
The Humane Society of the United States

James K. Wyerman
Vice-President for Program
Defenders of Wildlife

Allan Thornton, President
Environmental Investigation Agency

Christine Stevens, Secretary
Society for Animal Protective Legislation

The Honorable James Saxton
Chairman
House Subcommittee on Fisheries, Wildlife and Oceans
H1-805 O'Neill Building
Washington, DC 20515

October 27, 1995

Dear Mr. Saxton:

I am writing in response to a September 27, 1995, letter from Mr. Frank Curic, President of Zoological Birds Import of Franklin Park, Illinois. Representative Henry J. Hyde (R-Ill, 6th) submitted this letter into the record of the oversight hearing on the U.S. Wild Bird Conservation Act (WBCA). In his accompanying letter Mr. Hyde stated that the WBCA has "punished" Mr. Curic and that the Act needs to be "fixed". However, Mr. Curic's list of "complaints" involve violations of federal laws and regulations totally unrelated to the WBCA. In fact, the majority of his referenced "problems" actually occurred before the Act's passage in October 1992.

Mr. Curic can hardly be described as a "law abiding citizen". The majority of his claims of abuse and harassment involve monetary fines Mr. Curic was ordered to pay in compensation for blatant and continuing violations of the federal laws and regulations which govern the wildlife import industry. As he describes in his own letter, Mr. Curic has a consistent history of violating the federal regulations governing the humane transport of wildlife.

Because of the low prices paid for most bird species in developing countries, insuring humane care for these animals becomes an unnecessary inconvenience for many importers. Mr. Curic's cruel treatment of these birds begins with his numerous violations of transport standards and ends after the 30-day required quarantine with death for large numbers of birds at his facilities. In 1994, the most recent year for which data is available, over 4,000 exotic birds died in Mr. Curic's possession. His company holds one of the highest rates of mortality for exotic birds imported into the United States – 18% of his birds imported were either dead on arrival or died during quarantine.

Mr. Curic mentions the Environmental Investigation Agency in his letter to Mr. Hyde. In 1994, I witnessed the arrival of a large shipment of wild birds in New York and the unpacking of these birds in a commercial quarantine station. The shipment violated numerous federal regulations governing the humane transport of these birds. As a result, dozens of dead birds were removed from the crates during unpacking. In addition, the required procedures for insuring secure quarantine of the birds (in order to prevent the spread of harmful disease) were violated repeatedly. Such infractions are a severe threat to the multimillion dollar poultry industry here in the United States.

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Mr. Curic falsely claims that the "U.S. Fish and Wildlife Service successfully stopped American Airlines from carrying...(his) bird shipments to the United States." Presently over one hundred international airlines, understanding that tens of thousands of live wild birds die in transport every year, have adopted policies not to transport live wild birds for the commercial pet trade. These airlines do not wish to participate in a cruel trade that has had significant adverse effects on the conservation of many wild avian populations. The U.S. Fish and Wildlife Service was never involved in any efforts to influence the transport policies of these airlines. Information on the trade was provided by a large number of non-profit conservation, environmental and animal welfare organizations. These carrier restrictions continue to receive wide support from the American public.

In his letter, Mr. Curic claims that the FWS has eliminated twenty-three other bird importation businesses. Mr. Saxton, many of the largest commercial importers have put themselves out of business--they have been indicted, convicted or sentenced for laundering protected bird species into the "legal" trade. Their profits were in the millions of dollars. The trade in wild birds for pets has proven to be rife with corruption.

Mr. Curic's letter has no relation to the U.S. Wild Bird Conservation Act and should not have been submitted into the hearing record. The Act, adopted by unanimously by Congress and signed into law in 1992, simply insures that U.S. imports of wild birds are both humane and sustainable. We hope you will lend your support to reauthorization of this important federal law without changes.

Thank you for your attention.

Sincerely,

Ann Michels
Wildlife Trade Specialist

cc: The Honorable Henry J. Hyde

Conservation, Scientific, Environmental and Animal Welfare Organizations Support Reauthorization of the U.S. Wild Bird Conservation Act

The Honorable James Saxton
Chairman
Subcommittee on Fisheries, Wildlife and Oceans
U.S. House of Representatives
Washington, DC 20515

October 25, 1995

Dear Mr. Saxton:

The undersigned organizations support reauthorization of the U.S. Wild Bird Conservation Act of 1992 (WBCA) without changes. In particular, we oppose any weakening of WBCA requirements for the importation of foreign, captive-bred birds. Strict federal regulations are necessary in order to insure that imported exotic birds, claimed to be captive-bred have been genuinely bred-in-captivity. Otherwise wild birds, even threatened and protected species, could easily enter the United States in violation of federal law.

The U.S. Wild Bird Conservation Act is a critical tool to promote the conservation of exotic birds in the wild. Prior to its implementation, the United States was the world's leading importer of wild birds for pets--more than 7.4 million birds were imported between 1980 and 1991. High mortalities of birds in trade necessitated that many times the number sold be captured in the wild. Since implementation of the WBCA, U.S. imports of wild exotic birds have declined drastically. This Act is giving wild populations a chance to recover from decades of destructive, unsustainable trade for the U.S. pet market.

Thank you for your support on this important issue.

Sincerely,

Alaska Wildlife Alliance
American Humane Association
American Society for Prevention of Cruelty to Animals
Animal Protection Institute of America

Association of Field Ornithologists
Audubon Council of Pennsylvania
Audubon Naturalist Society
Audubon Society of New York State
Audubon Society of Missouri
Audubon Society of New Hampshire
Audubon Society of Portland, Oregon
Birds of Prey Rehabilitation Foundation
Border Ecology Project
Connecticut Audubon Society
Defenders of Wildlife
Delmarva Ornithological Council
Earth Island Institute
Environmental Defense Fund
Environmental Investigation Agency
Florida Audubon Society
Friends of Animals
Friends of the Earth
Fund for Animals
Greater Akron Audubon Society (Akron, Ohio)
Greenwich (Connecticut) Audubon Society
Hawaii Audubon Society
Humane Society of the United States
Illinois Audubon Society
Indiana Audubon Society
International Primate Protection League
International Wildlife Coalition
Maryland Ornithological Society
Massachusetts Audubon Society
Michigan Audubon Society
National Audubon Society
Nebraska Audubon Council
New Jersey Audubon Society
New Jersey Chapter of the Wildlife Society
New York City Audubon Society
Rainforest Action Network
Ranier Audubon Society (Auburn, Washington)
Society for Animal Protection Legislation
Tennessee Ornithological Society
Texas Committee on Natural Resources

The Ornithological Council
representing the American Ornithologists' Union, The Cooper Ornithological Society, the Wilson Ornithological Society, the Colonial Waterbird Society, the Association of Field Ornithologists, the Raptor Research Foundation, and the Pacific Seabird Group
Vermont Audubon Council
Virginia Ornithological Society
Wildlife Conservation Society
World Society for the Protection of Animals

26 October 1995

Congressman H. James Saxton
House Subcommittee on Fisheries, Wildlife, and Oceans
United States House of Representatives
H1-805 O'Neil House Office Building
Washington DC 20515

Dear Mr. Chairman and Subcommittee Members:

I am writing to you regarding the Wild Bird Conservation Act of 1992 (WBCA; Public Law 102-440) and the Public Hearings held on 28 September 1995. I request that the enclosed letter and materials be included in the Congressional Hearing as a written testimony. The enclosed materials are:

1. American Federation of Aviculture journal containing the article by Mr. Rick Jordan entitled "Conservation and Aviculture" found on pages 45-47. I have not made copies for each Subcommittee member due to copyright laws. I respectfully request that each Subcommittee member refer to this journal as part of my testimony.

2. My letter to the Editor-in-Chief of the American Federation of Aviculture regarding my opinion of this above mentioned article.

3. An article from the Abaconian newspaper regarding the National Park that was developed for the protection of the Bahama parrot. It was published in May, 1994 on Great Abaco Island, Bahamas. Research conducted by a well known field biologist was instrumental in the implementation of this park. This research appeared to be criticized by Mr. Jordan in the above mentioned article.

4. Advertisement from American Federation of Aviculture referring to the WBCA.

5. Article from the Breeders' Bulletin (October 1995) referring to the WBCA.

I submit my curriculum vitae to the Subcommittee to substantiate my position as a research scientist. However, I request that it is not included in the testimony package and remains confidential. Thank you.

I, personally, take full responsibility for this testimony. It does not necessarily represent the views of any organizations or institutions with which I am affiliated.

Sincerely,

Patricia Wainright, Ph.D.

26 October 1995

Congressman H. James Saxton
House Subcommittee on Fisheries, Wildlife, and Oceans
United States House of Representatives
H1-805 O'Neil House Office Building
Washington DC 20515

Dear Mr. Chairman and Subcommittee Members:

I am writing to you regarding the Wild Bird Conservation Act of 1992 (WBCA; Public Law 102-440) and the Public Hearings held on 28 September 1995. I request that this letter be included in the Congressional Hearing as a written testimony.

I strongly urge you and your committee members to support the continued implementation of the WBCA in its entirety. The WBCA was designed to protect exotic birds from inhumane treatment and over exploitation from their native habitats. The WBCA has had a monumentally positive impact on the conservation of exotic birds in foreign countries. Prior to its enactment, the U.S. appeared analogous to a large vacuum cleaner removing natural treasures such as exotic birds from their countries of origin. We cannot return to that irresponsible international distinction.

Prior to the WBCA foreign countries were faced with overwhelming pressure from the U.S. to export their native birds. Authorities in these countries are now more effective in restricting or banning the exportation of their birds. I am a research scientist and I have worked on parrot conservation with Government and National Trust biologists in the West Indies. They are working hard to preserve their birds. They do not have the manpower or resources to monitor the poaching of birds for export to the U.S. Poachers destroy nests by cutting-down trees, killing many young birds and destroying nesting sites for subsequent years. These countries need our support by maintaining strict regulations at U.S. borders.

The Act has provided incentives for captive breeding within the U.S. Aviculturists in New Jersey are thriving. In my home town, an aviculturist is doing so well that he doubled his facilities this year.

I listened to and have closely studied the testimonies given during the WBCA Hearings from those individuals and groups supporting the Act and those opposing it. I was impressed with those statements presented by the WBCA supporters; their main interest was clearly the continued protection of exotic birds.

I was dismayed with what I heard from those who testified for the bird-breeding industry. Their testimonies appeared self serving, and in many cases put their interests ahead of the birds that they profess to be protecting. Conservation is not taking birds from the wild, it is not weakening regulations for captive breeding facilities in foreign countries, and it is not making it economically convenient to import birds for a few. They claimed that "the regulations are burdensome and restrictive". Regulations are restrictive because we, as a species, are greedy. Weakening the provisions of the Act will open loopholes for the illegal importation of wild-caught birds.

The representative for the Association of Avian Veterinarians (AAV) stated that she "opposes the current language in the WBCA that requires that all birds exported from an approved captive breeding facility be bred at that

facility". However, weakening Section 107, as was suggested, will open venues for illegal 'laundering' of wild-caught birds through loosely defined captive breeding facilities in foreign countries. Further, the Act will be ineffective in protecting birds from inhumane treatment if strict regulations are not placed on husbandry practices. The U.S. Fish and Wildlife Service (USFWS) is in the process of establishing criteria for approving foreign breeding facilities. This section should not be weakened before it is even promulgated.

The testimony submitted by the American Federation of Aviculture (AFA) expressed their impatience with the WBCA in providing immediate results from sustainable-use population studies. Their view appears to be that if such studies are not completed in a timely manner, then importation should resume in an 'ignorance is bliss' manner.

At the same time that AFA representatives testified at the Congressional Hearings that the U.S. government should be funding biological studies in the field, Mr. Rick Jordan (First Vice-President, AFA) outrageously criticized studies of parrot species in the field. Mr. Jordan referred to the WBCA as "stupid" in an article published in the AFA magazine (AFA Watchbird. 12(5):45-47. 1995; enclosed). In my opinion this article galvanizes readers against the WBCA in its current form. How can he claim he supports the WBCA and conservation when he appears so cynical about scientific studies of birds in the wild?

The Pet Industry Joint Advisory Council (PIJAC) is concerned that the WBCA is too restrictive and is therefore destroying the import industry. They claimed that there has been a decrease in the numbers of active importers from "30-40 to 6-7". The WBCA was designed for the protection of birds, not the economic interests of a few. If the U.S. appeared as a large vacuum cleaner, the importers appeared to represent the nozzle.

Another issue presented by the AAV representative concerns the inconvenience of the permit application process. The permit application process was not designed to be convenient, it was made to be thorough. It takes time to verify the legitimacy of any request for import of species covered by Convention on International Trade in Endangered Species (CITES) and the WBCA. My research in genetics requires feather samples from several CITES bird species. The feathers are collected in a non-destructive manner, yet require import permits from the U.S. and export permits from the country of origin. My permit applications are lengthy requiring as long as three months to process. The aviculturists are not being singled out for harassment. The USFWS conducts necessary investigations for each request for importation of birds or bird products. The permit application process is as lengthy as it needs to be to ensure the protection of the birds.

In my opinion the testimonies presented by the AFA, AAV and PIJAC are focused on eliminating any regulations within the WBCA that restrict convenient importation of exotic birds. Yet these regulations are precisely what guard against inhumane treatment and over exploitation of birds in foreign countries. I do not interpret their testimonies as support for bird conservation in their native habitats. Their definition of conservation appears to be breeding rare species in captivity so as to preserve them there for eternity in an artificial environment. In my opinion the most important role that aviculturists can play in conservation is to breed domestically those species that are in demand by the pet industry, thereby reducing demand on wild birds. Aviculturists may also play a role working closely with

zoological societies in closely monitored breeding programs for endangered species.

There is a prevalence of ambiguous information being communicated to aviculturists in this country (see enclosed article and advertisement), which has resulted in confusion, misunderstanding, and antagonism toward the WBCA. The majority of aviculturists are in favor of protecting the exotic birds from non-regulated importation. They recognize the conservation and cruelty issues. However they are apparently under the mis-impression that birds brought into their facilities before the Act was implemented are subject to burdensome record keeping and mandatory marking. Additional misunderstanding concerns alleged plans by the WBCA to impose additional restrictions on domestic breeding facilities; yet the WBCA concerns solely foreign facilities. Many aviculturists fear they will loose their birds if the WBCA is not weakened. Many aviculturists are currently responding to Congress based on these misunderstandings.

Please do not weaken any amendments. The Act is still young and the wild birds need full protection.

I, personally, take full responsibility for this testimony. It does not necessarily represent the views of any organizations or institutions with which I am affiliated.

Sincerely,

Patricia Wainright, Ph.D.

Curriculum Vitae

Name: Patricia Wainright

Address: Institute of Marine and Coastal Sciences
Rutgers University; New Brunswick, New Jersey 08903-0231

PROFESSIONAL EXPERIENCE:

1994	present	Assistant Research Professor, J. Frederick Grassle
1992	1994	Postdoctoral Associate, J. Frederick Grassle Laboratory Manager.
1990	1992	Postdoctoral Associate, Marine Biological Laboratory (Woods Hole, MA), M.L. Sogin
1990	1990	Guest Investigator, Woods Hole Oceanographic Institution, D. Prasher
1987	1989	Postdoctoral Associate. Southeast Poultry Research Laboratory, USDA (Athens, GA), M. Perdue

EDUCATIONAL BACKGROUND:

1983	1987	University of Georgia, Ph.D.
1980	1982	Florida Atlantic University, M.S.
1978	1980	Florida Atlantic University, B.A.

FELLOWSHIPS:
Predoctoral Fellowship: Department of Avian Medicine (4 years).

MEMBERSHIPS:
American Ornithologists' Union; The Society of Caribbean Ornithology; The Neotropical Ornithological Society; African Seabird Group; International Council for Bird Preservation; Association of Avian Veterinarians; Colonial Waterbird Society; British Ornithological Union; Association for Parrot Conservation; American Federation of Aviculture; American Association of Avian Pathologists (past member).

CURRENT RESEARCH:
Molecular genetics of the Amazon parrots from the Neotropics.

Molecular genetics of the seabirds found from the Bering Sea region.

PUBLICATIONS (Peer-Reviewed Journals):
Kerk, D., A. Gee, M. Standish, P.O. Wainright, M.L. Sogin, Drum, A. Elston, R. The rosette agent of Chinook salmon (*Oncorhynchus tshawytscha*) is closely related to choanoflagellates, as determined by the phylogenetic analysis of its small ribosomal subunit RNA. Marine Biology 122:187-192. 1995.

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Wainright, P.O., D.J. Patterson, M.L. Sogin. Monophyletic origin of animals; a shared ancestry with the fungi. *In:* Molecular Evolution of Physiological Processes, D.M. Fambrough, editor. Society of General Physiologists 49:39-54. 1994.

Wainright, P.O., G. Hinkle, M.L. Sogin, and S.K. Stickel. The monophyletic origin of the metazoa; an evolutionary link with fungi. Science 260:340-342. 1993.

Bhattacharya, D., L. Medlin, P.O. Wainright, E.V. Ariztia, C. Bibeau, S.K. Stickel, M.L. Sogin. Algae containing chlorophylls a + c are paraphyletic: molecular evolutionary analysis of the chromophyta. Evolution 46:1801-1817. 1992.

Wainright, P. *Book Reviews*: 1) Molecular Systematics. 1990. Hillis, D.M. and C. Moritz (eds). Sinauer Associates, Inc. Sunderland, MA. 588 pp. European Journal of Protistology 28:120-121. 1992. 2) Fundamentals of Molecular Evolution. 1991. W-H. Li and D. Graur. Sinauer Associates, Inc. Sunderland, MA. 284 pp. European Journal of Protistology 28:121. 1992. (Editor reviewed)

Wainright, P.O., M.L. Perdue, M. Brugh, and C.W. Beard. Amantadine resistance among hemaglutinin subtype 5 strains of avian influenza virus. Avian Diseases 35:31-39. 1991.

Perdue, M.L., P.O. Wainright, M. Brugh. Effects of chicken embryo age on time to death following infection by avian influenza viruses: Implications for distinguishing highly pathogenic isolates. Virus Research 16:137-152. 1990.

Perdue, M.L., P.O. Wainright, S. Palmieri, and M. Brugh. *In ovo* competition between distinct viral populations from an avian influenza isolate. Avian Diseases 33:695-706. 1989.

Wainright, P.O., P. Villegas, M. Brugh, and P.D. Lukert. Characterization of avian infectious bronchitis virus using monoclonal antibodies. Avian Diseases 33:482-490. 1989.

Wainright, P.O., P.D. Lukert, R.B. Davis, and P. Villegas. Serological evaluation of some psittaciformes to budgerigar fledgling disease virus. Avian Diseases 31:673-676. 1987.

PUBLICATIONS (Other):

Wainright, S. C. and P. O. Wainright. Seabird observations on the Pribilof Islands, Alaska during August. Bird Watcher's Digest (To be submitted. November, 1995).

Haney, J.C., M.V. Flint, A.N. Golovkin, P. Wainright, and S. Wainright. Ecosystem research of seabirds in the Bering Sea, Pribilof Islands, Alaska 1993. Beringian Seabird Bulletin 2:41-43. 1994.

Wainright, P.O. Antigenic characterization studies of infectious bronchitis virus using monoclonal antibodies. Dissertation, Doctor of Philosophy. pp. 1-136. 1987.

Wainright, P.O., P.D. Lukert, and R.B. Davis. Update on papovavirus infection in fledgling psittaciformes. Watchbird 14:34-37. 1987.

Wainright, P.O., N. Pritchard, R.B. Davis, O.J. Fletcher, and S. Clubb. Identification of viruses from amazon parrots with a hemorrhagic syndrome and a chronic respiratory disease. *In* Proceedings of the First International Conference on Zoological and Avian Medicine. Oahu, HA. pp. 15-19. 1987.

Davis, R.B., P.D. Lukert, and P.O. Wainright. An update of budgerigar fledgling disease. *In* Proceedings of the 33rd Western Poultry Disease Conference, Davis, CA. pp. 96-98. 1984.

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Wainright, P.O. Preliminary bacteriology in psittaciformes, with procedures, for the identification of the bacteria present. *In* Proceedings of the Annual Meeting Association of Avian Veterinarians, Atlanta, GA. pp. 58-90. 1982.

REVIEWER FOR:
Marine Biology, Biological Bulletin, Avian Pathology, Massachusetts Sea Grant (Woods Hole Oceanographic Institution), European Journal of Protistology.

PRESENTATIONS:
Wainright, P.O., R. Gnam, and J. Wiley. Annual Meeting of the Society of Caribbean Ornithology. Phylogeographical study of *Amazona spp.* from the Caribbean Islands. Martinique, West Indies. August, 1994.

Perdue, M.L., P.O. Wainright, and M. Brugh. American Veterinary Medical Associaton 126th Annual Meeting. July, 1989.
Published Abstract:
Chicken embryo age effects on time to death measurements with avian influenza viruses: Potential for rapid identification of highly pathogenic strains. Journal of the American Veterinary Medical Association 194(12):1208. 1989.

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Published Abstract:
The susceptibility of virulent and avirulent isolates of H5 avian influenza virus to amantadine. Journal of the American Veterinary Medical Association 192(12):1779. 1988.

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Published Abstract:
Preliminary comparisons of nine strains of infectious bronchitis virus, using monoclonal antibodies. Journal of the American Veterinary Medical Association 190(12):1628. 1987.

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Published Abstract:
Effectiveness of anti-herpetic compounds on Pacheco's disease virus of psittacines. Journal of the American Veterinary Medical Association 185(3):337. 1984.

Wainright, P.O. (Invited lecturer) Association of Avian Veterinarians Annual Meeting. Preliminary bacteriology in psittaciformes. June 1982.

18 October 1995

Dale R. Thompson; Editor-in-Chief
American Federation of Aviculture
3118 West Thomas Road; #713
Phoenix, AZ 85017-5308

Dear Mr. Thompson:

I am writing to you regarding the article "Conservation and Aviculture" by Rick Jordan. I find this article to be extremely inappropriate. Mr. Jordan's statements are either based on misinformation or were purposefully chosen so as to mislead readers in favor of the author's biased and erroneous views. It is published as the Wild Bird Conservation Act (WBCA) is being reviewed in Congress for re-authorization. Mr. Jordan's reference to the WBCA as "stupid" is unprofessional for the First Vice-President of AFA.

At the same time that AFA representatives testified at a recent Congressional Hearing stating that the U.S. government should fund biological studies in the field (to conduct sustainable-use research programs), Mr. Jordan outrageously criticizes studies already conducted on parrot species. Mr. Jordan is misleading the readers of the AFA Watchbird by giving inaccurate accounts of work done by several eminent scientists. For example, he referred to a study in the Bahamas ("...one isolated island...") as irresponsible and useless. However, as a result of this study, the Bahamas government established a National Park solely to protect this parrot subspecies from extinction. Dr. Rosemarie Gnam's work was directly responsible for the fruition of this park.

I will not cite further examples in his article because they are too numerous, and ludicrous. However, I will comment on the article as a whole. The recurring theme is an attack on all research on parrots in the wild. Such research, he claims, is wasteful; the only way to save species is to breed them in captivity and maintain them in 'living museums'. This approach is narrow-minded and gloomy. Is this the philosophical approach to conservation that the AFA endorses? If so, it is pathetic.

With this article, Mr. Jordan is pitting the conservation biologists and aviculturists against each other. While at the end of his statement he claims that conservation and aviculture can work together, I doubt that any conservation field biologist would consider working together with aviculturists such as Mr. Jordan after reading his inflammatory article. I find Mr. Jordan's manner of communication deceitful to your readers. He is trying to fire them up to support new amendments that would 'gut' the WBCA, rendering it ineffective for wild bird conservation.

How can the AFA claim a conservation role when you publish articles such as this?

Sincerely,

Dr. Patricia Wainright
Assistant Research Professor
Rutgers University
AFA Member

cc: Drs. Rosemarie Gnam, Noel Snyder, James Wiley
Robert J. Berry and Dr. Benny Galloway
Honorable James Saxton and Members of the House Subcommittee on Fisheries, Wildlife, and Oceans

The Abaconian
Volume 2, Number 5 May 1994
The News of the Island

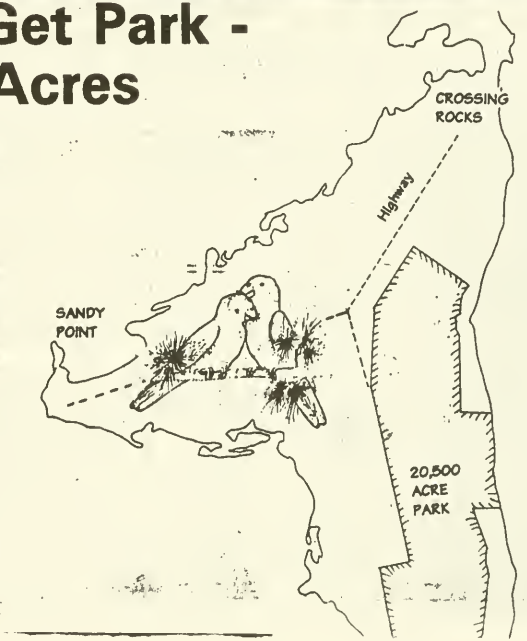
Parrots Get Park - 20,500 Acres

The Honourable Hubert Ingraham, Prime Minister, signed a 99-year lease with the Bahamas National Trust setting up a national park in Abaco in an effort to save the Bahama parrot from extinction.

The Prime Minister said, "Today is a happy day for environmentalists in The Bahamas. Some 20,500 acres in South Abaco, inclusive of some 5,000 acres of forested land where the most endangered population of parrot remain, should be conserved for the preservation of the species and be declared a National Park under management of the National Trust and to so remain in perpetuity." The lease signed with the Bahamas National Trust features a nominal rent of one dollar per year.

The Prime Minister said that there are about 3,000 birds left of a once-abundant population. At the time of landfall of Christopher Columbus some 500 years ago flocks of parrots were said to have darkened the sun. Now the birds are on the verge of extinction because of "environmental threats, including poaching for the international pet trade, destruction of

PLEASE SEE PARROTS Page 20



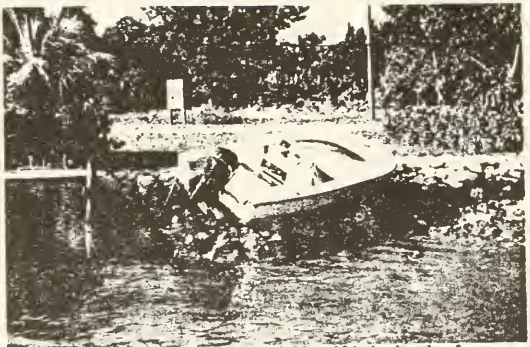
Hurricane Season Begins

Hurricane season began June 1st. The meteorologists predict that there will probably be about ten storms which may become strong enough to be named of which about six will develop into hurricanes. These numbers are somewhat higher than average. There's a possibility that two could be killer storms with wind higher than 110 miles per hour.

Hurricane activity is affected by rain and drought cycles in West Africa, high-altitude wind flow and the Pacific Ocean phenomenon El Nino. It is expected that this season will be more active than normal.

The United States has updated their equipment for tracking and studying hurricanes. A new space satellite, GOES-8, launched in April will begin sending better data back by October. They also have a new super computer and a new mathematical model for predicting and tracking storms.

During the summer there is a constant procession (stream) of tropical waves coming our way from the tropical Atlantic. At the beginning of the season maybe three or four will be on the map at one time going up to seven or eight at one



A severe storm during the night of May 19th broke the Lawrence Engineering boat loose and threw it up on the shore. The cowling had to be replaced but the boat suffered minor damage. Daylight found a second boat on the rocks at Iron Point.

New M H Sunfish Racing Schedule

By Liann Kaighin

The Marsh Harbour Sailing Club is excitedly looking forward to Saturday, June 25th, when a fun day of sunfish sailing, fun races and cookout is planned. The event will be held at Pond Bay Beach. The main attraction is an intended "Masters" race for members of the MHSC who may not be active in the club at the present time. This prestigious list includes the likes of Jack Albury, Allan Lowe, Stewart Stratton, Rowan Higgs, Astrid Stratton, Donald Lowe, Lewis Key, Marcell Albury, Lucien Stratton, Robbie Higgs, Will Bethel and Timmy Higgs. The MHSC encourages its founders and any other interested persons to come out and see if you still have what it takes to win a sunfish race.

The second sunfish festivity scheduled for the summer months is the 5th Annual R.T.I.A Sunfish Regatta. This is intended for Saturday, July 2nd, 1994. Three races in the morning and three after lunch will constitute the regatta. A light lunch will be provided during the break. There is a $10.00 registration fee for entry in this event. Skippers' meeting is scheduled for 10:00 a.m. at Pond Bay Beach with race times to be announced at that meeting.

If you have any questions about this regatta or are interested in bringing the family out to our fun day, please contact Commodore Jim Kaighin at 367-3086, M-F, 9-5.

PARROTS *FROM Page 1*

the natural forest habitat by various economic and development activities and the destruction of nestling by wild cats," said the Prime Minister.

"The park is a significant addition to the national park system in The Bahamas. It will serve as another protected area for the rest and recreation of future generations of Bahamians and visitors to our shores."

"Let me also say with much thanks and gratitude that...the children of the Hope Town All Age School and children from all over The Bahamas have been very consistent and persistent in their efforts to ensure that today came about.

"We, as a country with twelve national parks, are distinguishable from any and all others in our region. Indeed, on the issue of environment, we can be justifiably proud of what we have done and we can also be justifiably proud of what the National Trust has done and is doing.

"It has been and continues to be a very responsible organization, taking full account of economic demands and need of our country and balancing that in terms of our environmental consideration.

"...We look forward to not only the preservation of the Bahama Parrot in Abaco but we look forward to the increase of its population much the same as the fish in the National Park in Inagua has increased substantially as a result of decisions taken many years ago."

The Prime Minister also said that environmental activists, reportedly representing some 5,000 persons, sent him a letter that said they will settle for nothing less than a total ban on long-line fishing.

He continued, "The government of The Bahamas has banned long line fishing. The government has great respect for organizations like the Trust and environmentalists."

A L E R T ! ! !

THE ANIMAL RIGHTS AGENDA...

NO MORE BIRDS

READ:

"Animal Rights: The Inhumane Crusade"

Do you know the animal rights organizations, their programs in the public schools, their goals in your city and county and how they are accomplishing them? Order this book and have the details at your finger tips. With this straight forward information you can alert your family and friends, your local bird club officials and members, your city council members, your county supervisors, and state representatives. Comprehensive information on all major animal rights groups, their funding and their goals.

IF YOU WANT TO KEEP YOUR BIRDS, YOU NEED THIS INFORMATION TO HELP YOU PROTECT YOUR INTERESTS! THESE ARE THE PEOPLE WHO HAVE BEEN EFFECTIVE IN RESTRICTING AND PROHIBITING KEEPING AND BREEDING OF BIRDS AND ANIMALS. THEY HAVE BEEN BUSY OBTAINING CHANGES IN LOCAL REGULATIONS, STATE LAWS AND REGULATIONS AND SECURING PASSAGE OF THE WILD BIRD CONSERVATION ACT OF 1992.

AFA is purchasing a bulk order of these books so that we can offer them to AFA members and clubs at a reasonable price. Order your copy now of ANIMAL RIGHTS: THE INHUMANE CRUSADE by Daniel T. Oliver, at the low price of $14 for one copy, two for $25, and five for $55. Price includes postage and handling. Order **YOUR** copy **NOW!!**

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EVERY AVICULTURIST SHOULD HAVE THIS BOOK IN HIS/HER LIBRARY!

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BIRD LAWS AND YOU

The Fish and Wildlife Service (FWS) met with Congress September 28, 1995 to present their report compiled from public input on a voluntary program of labeling of exotic birds and certification of breeding facilities and retail outlets

Mark Phillips, General Biologist with the FWS, mentioned that the aviculture and conservation sides were about equally represented. Aviculturists, Phillips said, were asking that the offspring of illegally imported birds be considered legal, thereby eliminating the liability of purchasers of those offspring. He said aviculturists also asked for the free importation of captive bred birds

Phillips said the conservationists were concerned that if captive bred birds were deleted from consideration, that illegal wild-caught birds could simply be labeled as captive bred and imported legally. FWS is sending us a packet outlining attendees and their positions, but for now we only have phone statements from Phillips and Harry Burroughs, Director of the Subcommittee on Fisheries, Wildlife & Oceans

Burroughs said, "I received a whole lot of letters requesting deletion of **domestic captive bred birds from the WBCA**. I can't see that happening, since the Act has no effect on domestic bred birds anyway..."
*...**What??** (What about certification?)*

This is being *reviewed by Congress now*. It is very important that our voices be heard. Our "Avian Regulatory Watchdog," Ed Hamilton suggests writing your Congressman today! Indicate that you are a constituent in his/her district and include that *the WBCA was written to protect wild birds, not to regulate **captive breeding***. Be sure to request ***deletion of all regulations concerning captive breeding***.

Your letters *WILL HELP* and the quantity must outnumber that from animal rights groups! So tell your fellow breeders and write your Congressman today!!!

Lynn W. Reed, Editor

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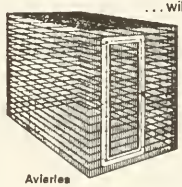

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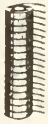

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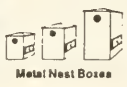

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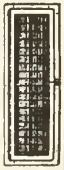

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can indicate such findings as kidney disease, presence of excessive glucose or sugar in the urine (may be suggestive of diabetes), kidney function, and possibility of heavy metal poisoning.

- Polyomavirus - This deadly virus disease may be identified with use of the DNA probe test, from the droppings of affected and shedding birds.
- Liver disease - Decreased function, inflammation of, or infection or insult to the liver may be suggested by a change of the droppings (usually the urate portion, which normally is white in coloration, is affected). Further diagnostic tests such as serum chemistries or specific tests for psittacosis may be warranted.
- Psittacosis (Parrot Fever) - several diagnostic tests are available that detect the presence of or react to the presence of the causative organism of psittacosis, Chlamydia psittaci.

Amy B. Worell, DVM Dipl. ABVP.
West Hills, CA.

Conservation and Aviculture

by Rick Jordan
Kutztown, Pennsylvania

What is conservation? Webster defines the word as "the act of keeping from depletion." How does this relate to breeding birds in captivity? If you ask this question of an aviculturist they will say they are breeding birds so they will exist when the habitat has been totally destroyed and no more specimens exist in the wild. That certainly qualifies as "the act of keeping from depletion." If you ask a conservationist how aviculture is related to conservation they will usually tell you there is little correlation between the two. So who is the most correct? Are we, as aviculturists, wasting our time or are we actually doing some good for the future of certain bird species?

A controversy has arisen between aviculture and "in the wild" conservation. Suddenly there seems to be competition between the captive breeders and the field biologists who both seek the same goal, to save birds in the wild. This competition is not helping the birds but, instead, hampering captive breeding efforts for many rare and endangered birds. Birds that are in need of assistance if they are to survive in their natural habitat for years to come.

The relationship between captive breeding and conservation in the wild

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is very difficult to define. Perhaps there is no relationship between the two. Perhaps we must all adjust our thoughts to accept the fact that, in these changing times, there are two distinctly different sectors of conservation, captive breeding and conservation in the wild. Unfortunately, most of the regulations that have been promulgated by our government are geared towards the benefit of the species in the wild. This eliminates the participation efforts of captive breeding in any given conservation program that is funded by the government. It also gives the field biologist the upper hand when seeking justification for a new "program" to be funded by the government.

The above scenario is a sad one indeed. It does not consider the one fact that has led to the demise of most species in the first place, habitat destruction. Although collection for the pet trade and breeder trade is blamed for the disappearance of many species in the wild, man's interference in the habitat is really the cause of it all. So we are funding more interference, ignoring captive conservation, and continuing to cut the habitat on a daily basis. In the mean time, "save the world biologists" are out there hanging unnatural nests, counting birds, shooting birds, and writing their doctoral dissertations on the possible extinction of yet another species of bird. Then there are a few who are participating in release programs that boggle the mind with justified, governmentally funded, stupidity.

On one isolated island we have a biologist who needs to get a doctorate degree. What does she do to get it except sit in the wild and observe a very rare species of Amazon parrot attempt to nest in a new habitat filled with feral cats. Did she ever stop and consider that perhaps the decline of this bird was due to exactly that which they are observing. Common house cats that have gone wild are destroying the nests, and in some cases, even the laying hen in the nest. Did this field biologist do anything to help the birds or did she only study the nests, write a dissertation and collect her new degree and move on to a new job? As an aviculturist, the first thing that I would have done is have the cats destroyed! The only way for this species to recover is to restore the habitat to what it was and make it safe for the birds to nest successfully.

Interestingly enough, this biologist is very anti-captive breeding. She feels that the demise of most of these rare birds was due to collection for the trade. However, in all my world travels and all the aviaries, public and private, that I have visited, there are NO representatives of this species in captivity. Whoops there goes another one of those...

Right about the same time, there was another governmentally funded biologist trying to re-establish a parrot species in an area where it has not been seen since the 1930's. This habitat is hostile and full of predators. Could this have been the reason that the birds disappeared from here in the first place? I guess not. The biologist continued to release birds into this area only to find them killed or missing completely. Surely there must have been another reason these birds have moved out of this area.

This same species has another range. A range where it is quite common and not in a highly threatened position, unless of course someone decides they need the lumber. Why not release birds into this area where they already exist in adequate numbers and the newly released can learn from the birds that are already there. Of course this would not be such an exciting project and may not receive as much press and prestige as starting an entirely new group in an uninhabited area. Instead, the final published result of the project is summarized as "reintroduction of birds is not feasible, captive bred birds are not suitable for release." Strike another blow against aviculture.

If you really want to see conservation at work, take a good look at the government project on one of the northern Caribbean Islands. In the early 1980's there were an estimated 50 representatives in the wild. Everyone jumped through the hoop to help save the bird. Of course none were taken off the island and placed with captive breeders who could have done some good with them. Instead, captured pairs were set up on the island (some pairs were two females), and the results of this captive-breeding farce were used to deny captive breeding as a viable option. The species continued to decline in the wild. As far as anyone knows, this bird is still in decline. Hundreds of thousands of dollars have been spent by the tax payers to save this bird and yet the results of this project are difficult if not impossible to acquire. My guess is that the project has done little to save this bird. If it were a successful project wouldn't the biologists in charge want the world to know what they have done?

I would like to congratulate one conservation effort by Mr. Paul Butler and his associates. It appears that the educational campaign that he has been involved with in the lower Caribbean Islands has resulted in an increase in the number of birds that are in the wild. Keep up the good work Mr. Butler, could you possibly share some of your knowledge and insight with the biologists in these other programs?

Another conservation effort that warrants mention is the Mauritius Parakeet project that is funded, in part, by the World Parrot Trust, a group of captive breeders and others I might like to add. This project shows great potential and is beginning to demonstrate a connection between captive breeding and wild habitat management.

Why am I so cynical, you might ask. Am I the only one that sees that the governmentally funded projects around the world are not working? How many Kakapo have been bred since the government stepped into that project? How many Puerto Rican Amazons? The list can go on but it would only be depressing. Remember, "You can't fight City Hall."

Let's take a look at an interesting conservation effort for the Spix's Macaw. Oh the scandal it is. There is only one left in the wild. In this case, collecting for the trade did in fact deplete the wild, but there were only a few left in the wild anyway. If we had waited for the many "do right" governments to step in there would have been none. So, pairs of this bird were taken from the wild and ended up in private collections around the world. There was a "kind of hush, all over the world" as to who had them.

Only a few would announce the existence of these birds in their collections. My hat goes off to you...that took a lot of guts.

So, there are maybe five or six pairs in captivity around the world, about nineteen in the zoo in the country of origin, and a few in pet homes, as single birds, in the country of origin. I Should mention that there are several hundred dead ones in the museums around the world that have been shot by ornithologists but, I am sure they would not have bred anyway, right? In any case, none have been bred in the country of origin, none have been bred by the pet owners, but many have been bred by the "collector" who managed to get them. Yes, you heard me right, many have been bred in captivity. Does this justify conservation? I say, "hell yes." The world's population of this species has been almost doubled by the few pairs that are in the hands of the breeders. One point for aviculture!

How about the Blue-throated macaw from Bolivia? A few years ago they were extremely expensive to purchase because they were so rare in captivity. Now, thanks to captive breeding they are available and are not much more expensive than the common Blue and Gold Macaw. Another point for aviculture!

Blue-throated Conures, Crimson-bellied Conures, Hoffman's Conure, Queen of Bavaria Conure, Cuban Amazon, Vinaceous Amazon, Hyacinth Macaws, Ducorp's Cockatoos, White-eared Conures, all are now available as captive bred birds from many breeders across the world. There are upward of 200 species available from breeders somewhere. Captive breeding is working. It is "keeping free from depletion" those birds that are in need of help. It even helps to conserve wild flocks. If breeders can buy captive bred birds from other breeders they will not need to look to the wild for any more birds. So, I guess conservation in the wild and captive breeding do have something in common. Why then is it so difficult to get the two groups to work together? Why does our own government pass stupid laws like the "Wild Bird Conservation Act of 1992" and make it so difficult to import captive bred birds from other breeders?

It appears that many laws are being passed that are contrary to conservation. Some of this can be blamed on ignorance, but some of it is, beyond any doubt, due to some type of hidden agenda. Someone doesn't want birds bred in cages. These same people believe that extinction is part of the natural order and should not be interfered with. I am sure glad these same people are not in charge of finding a cure for the many illnesses that plague mankind. We would all be doomed to die an early death.

Conservation and aviculture can work together. If we must view the world as two separate "groups," those born in captivity, and those born in the wild, then so be it. But, at the same time we cannot allow someone to stop captive breeding or there will only be one group that remains, the most vulnerable group of all. Why can't conservation be content to know that the bird does in fact, live, breath, and breed in a cage somewhere in the world? In the end there will be no habitat to release any wild animals into. It will be as absurd as a release program for Tigers in downtown Los Angeles. ✈

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